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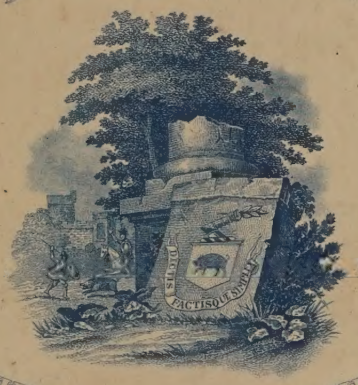

Presented by Horace C. Cooper, Jr

Received June 29, 1910

THE
COURTS AND LEGAL PROFESSION
OF
IOWA

VOLUME I.

HON. CHESTER C. COLE, HISTORIAN
HON. E. C. EBERSOLE, EDITOR

ILLUSTRATED

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EDITOR'S PREFACE.

In order that credit may be given to whom it is due, and that responsibility may rest where it belongs, I deem it proper in this prefatory note to state precisely my connection with the work which follows.

My contract with the publishers thus defines my duties: "To review articles to be written by persons to be selected by the publishers; to correct any errors in spelling, grammar, form of expression or punctuation; and to see that the capitalization is uniform and that any law phrases used are correct." It will thus be seen that I was to have no responsibility whatever concerning the substantial contents of the work; and my editorial duties have been confined to the terms of the contract.

When solicited thus to edit the work, I declined to have anything to do with it until solemnly assured that its references to persons would be confined strictly to statements of fact concerning them, and absolutely free from flattering estimates on the one hand, and from everything defamatory on the other. The legal profession has been nauseated with so-called "histories" and "biographies" which proved to be only ill-concealed efforts of the publishers to reap a rich harvest from the fertile field of human vanity, with the result that the man who was the most readily separated from his cash was written up, while other men far more worthy of prominent mention by reason of character, ability and service—but too modest to pay for their own laudation—received scant notice, or none at all. I was not willing to take even a small part

in producing another work of that kind. And, as testimony to the sincerity of the publishers, I wish to say that they gave me full authority to cut out all objectionable matter of the kind referred to, which I did accordingly.

But this rule was not meant to apply and was not applied to the references to persons made by Judge Cole in that portion of the work written by him. From the nature of his subject he could not avoid making estimates of the men who have been instrumental in shaping the jurisprudence of the state. Indeed, such estimates, made by so capable a man, constitute a most interesting and valuable part of his history of our jurisprudence. The legal profession and the people of the state in general are to be congratulated that the rich treasures of Judge Cole's remarkable memory—running back, as it does, to the earliest territorial days—are in this work made the property of the public for all future time.

THE EDITOR.

PUBLISHERS' PREFACE.

The difficulties encountered in the preparation, or rather in the supervision of the preparation, of this work were vastly underestimated. Many of these difficulties were insurmountable without the aid of others, which aid, in many cases, could not be obtained. Nevertheless, whatever of merit the work may possess, is largely due to the unselfish co-operation of a goodly number of the members of the bar to whom cordial acknowledgment is hereby made. Besides the information obtained in the way suggested, all other known means of securing it have been resorted to.

We have also been allowed to present some interesting facts taken from the early county histories, and we are under special obligations to Charles Aldrich, J. H. Anderson, A. M. Antrobus, A. P. Barker, Fred B. Blair, C. C. Cole, G. W. Clements, N. E. Coffin, M. J. Copeland, A. J. Edwards, E. C. Ebersole, S. H. Fairall, T. M. Fee, G. M. Gilchrist, William Graham, S. M. Gillelan, W. G. W. Geiger, George E. Hubbell, A. P. Kennedy, Jed Lake, W. R. Lewis, J. C. Mitchell, W. S. Mayne, John McCook, T. B. Perry, J. Scott Richman, E. F. Richman, Hiram Scofield, J. Stanbery, Robert Sloan, Henry Stone, E. R. Sayles, Ames Steckel, B. L. Wick.

In the compilation of what follows, the right to praise has been exercised with much greater freedom than the right to blame. The work treats of professional men from a professional viewpoint. True, in some cases the line is not very closely drawn, but in many cases it is. No un-

favorable inference should be based on the absence of remarks concerning the character or habits of any individual treated of in this work. We have aimed to faithfully represent the Legal Fraternity of the State of Iowa, and the interest which many of the profession have shown in the publishers' undertaking has been a source of gratification to them, and at the same time convinced them that the result of their labors cannot help but supply the demand of an urgent need. Nothing herein has been prompted by conscious malice or recognized partiality, and the publishers take pleasure in expressing their grateful acknowledgment to those who have contributed so largely to these pages, and have lent the influence of their names thereto as Advisory Editors and Contributors. An attempt has been made to keep within the record; to present the facts as they exist, and the errors in this direction are in understatement rather than in over-statement; but generally, where no contrary desire has been made known the purpose has been to add to the chronological facts a fair estimate of ability based upon achievement.

That the work is faultless, we do not presume; that it will meet with unqualified approval, we dare not hope. We have conscientiously performed our task, and hope we have done it well.

H. C. COOPER, JR., & CO.

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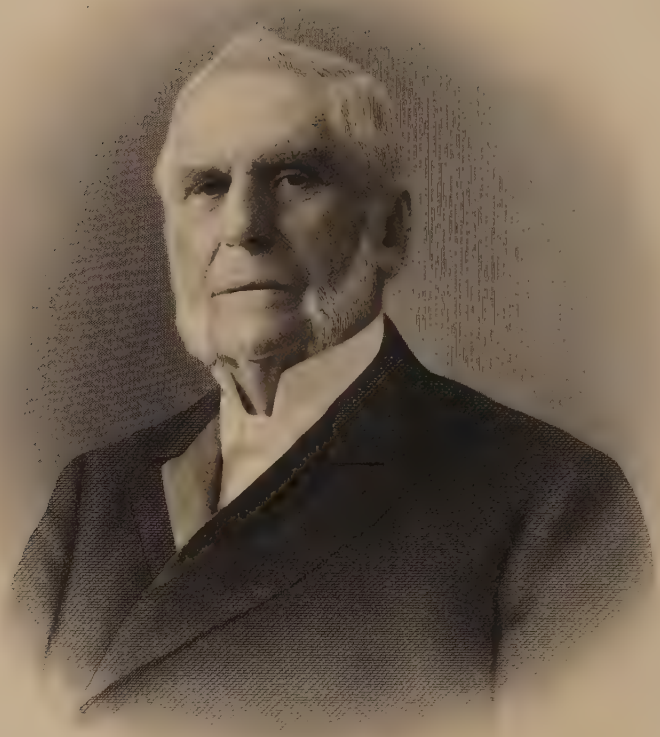
PART ONE.

A HISTORY OF THE JURISPRUDENCE OF THE STATE OF IOWA FROM THE EARLIEST PERIOD TO THE PRESENT TIME, TOGETHER WITH BRIEF SKETCHES OF SOME OF THE MEN WHO HAVE BEEN CONSPICUOUS IN ITS DEVELOPMENT.

BY C. C. COLE,

Many years Judge of the Supreme Court of Iowa, and until recently Dean of the Law Department of Drake University.



C. C. Cole

A HISTORY OF THE JURISPRUDENCE OF IOWA

AND OF THOSE WHO MADE IT.

CHAPTER I.

IOWA, ITS PHYSICAL CHARACTERISTICS, ITS PEOPLE AND TERRITORIAL JUDGES.

In writing the history of the jurisprudence of a state, it is neither incongruous nor irrelevant to note something of the nature and qualities of the state's surface and its soils, nor to give something of the history of its people more or less indicating their characteristics. It has been said, and its verity can hardly be questioned, that there is not upon the surface of the entire globe a tract of country of equal area with Iowa possessing equal fertility. It is true that in other countries, and in other states of our own nation, soil equal in fertility to that embraced within the state of Iowa may be found; but when the extent of the territory, embracing, as it does, over forty-five thousand square miles, is taken into consideration, and the fact that the whole of this area is land of such fertility, and substantially without any waste land embraced within it,—these facts give to Iowa its pre-eminence among the states.

Iowa has been further fortunate in the fact that, at the time of its early and most rapid settlement and growth in population, the lines of immigration were such that they brought into Iowa a larger proportion of the cultured and better classes of people than into any other western state. These people, in the early history of the

state, manifested this superiority not alone in the cultivation of its soil and the products to which they turned their attention, but also by the enactment of wise and liberal school laws, and by their legislation generally. The enactments by the territorial legislatures, as well as in the earlier history of the state, evinced consideration, prudence, sagacity and wisdom. The finances of the state were so carefully provided for and guarded that never in its history has there been any doubt as to its credit, and never any question as to its financial transactions. The state has been peculiarly fortunate in its freedom from defalcation by officers, and in the uniform wisdom manifested in its laws and their adaptation to the interests, welfare and prosperity of the people. It is worthy of note, as indicating the progressive spirit which characterized the people of Iowa in its earliest history, that, immediately after the admission of the state, legislative steps were taken for providing a code of procedure, and that this work was prosecuted to a successful termination in the adoption of the Code of Iowa, in 1851. This code was to the very front of the spirit of law reform which characterized the decade beginning with 1845, and while its model was perhaps, to a greater or less extent, the Code of New York, yet even that was simplified and better adapted to the West, with its broader liberality, and was contemporaneous with the Codes of Ohio, Kentucky and other states, having less of technicality in pleading than the Code of New York. This same progressive spirit was also manifested in the substantive laws embodied in the Code, especially with reference to the securing of rights of married women, the exemption of homesteads and personal property to a liberal extent, providing for mechanics' liens and in its provisions guarding against the vices of gambling and intemperance. Iowa was further fortunate in the high character and breadth of capacity of the officers appointed by the federal government

to take charge of its territorial administration, and particularly so in its chief justice and associate justices.

The act for the creation and organization of the territory of Iowa provided for its division into three judicial districts, and for the appointment of a chief justice and two associate justices, who should respectively reside in the districts assigned them, to hold their offices for the term of four years. Under this act the president, by and with the advice and consent of the senate, nominated and appointed Charles Mason, chief justice, and Joseph Williams and Thomas S. Wilson, associate justices. These were severally continued in office by re-appointment until the organization of the state government. The constitution of Iowa made provision for the continuance in office and the exercise of official duties by all officers, civil and military, then holding their offices and appointments in the territory under the authority of the United States.

Under this provision Charles Mason, chief justice, continued to hold his office until June, 1847, at which time he resigned, and Joseph Williams was by the governor appointed chief justice in the same month, and his term as such chief justice expired in January, 1848. John F. Kinney, Esq., was appointed associate justice by the governor in the place of Judge Williams, resigned, and who was appointed chief justice as above stated. Thomas S. Wilson, associate justice, resigned in October, 1847, and George Green was appointed by the governor to fill the vacancy.

Charles Mason, who was appointed chief justice of the supreme court for the territory, was a man thoroughly versed not only in the law, which abundantly qualified him for the position, but in general culture and in profound and versatile learning. He was a graduate of West Point, and had always been a very faithful as well as proficient student. His great learning and his high char-

acter and judicial temperament peculiarly fitted him for the position of chief justice, which he filled with great acceptability to the people and to the government. To him more than to any other one man may be attributed much of the excellence which characterizes the early jurisprudence of the territory of Iowa. Chief Justice Mason was endowed with a very active and vigorous mind and his culture and habits of thought, together with his legal learning, enabled him to grasp with unusual and searching comprehensiveness the questions submitted to him, and his opinions very uniformly reflect these qualities. He was well supported in his associate justices.

Joseph Williams was a man of liberal education and very great readiness of apprehension. He was not, probably, so close and accurate a student of the law as was his chief justice, and yet his reading of the law was extensive, and his readiness of apprehension and considerate judgment made him of great aid and assistance to his worthy chief. Judge Williams was possessed of a great fund of illustrative anecdotes which, together with his native humor, made him one of the most popular men in all the territory, as well as a popular and successful judge.

Thomas S. Wilson, the other associate justice, was a man of thorough culture and extensive legal learning. His mind was trained to the law, and he was most faithful and industrious in every duty connected with his position. He was a man clothed with great practicality of thought and power of investigation, and he exhibited during his term as associate justice of the territory, as well as in his practice and subsequent ten years of service upon the bench of the district court of the state, this practicality of thought and power of consideration, which readily places him among those entitled to most credit for our excellent early jurisprudence. This very brief and hurried review of the characteristics of the occupants of our territorial bench shows the good fortune of Iowa in the judges furnished it by federal appointment.

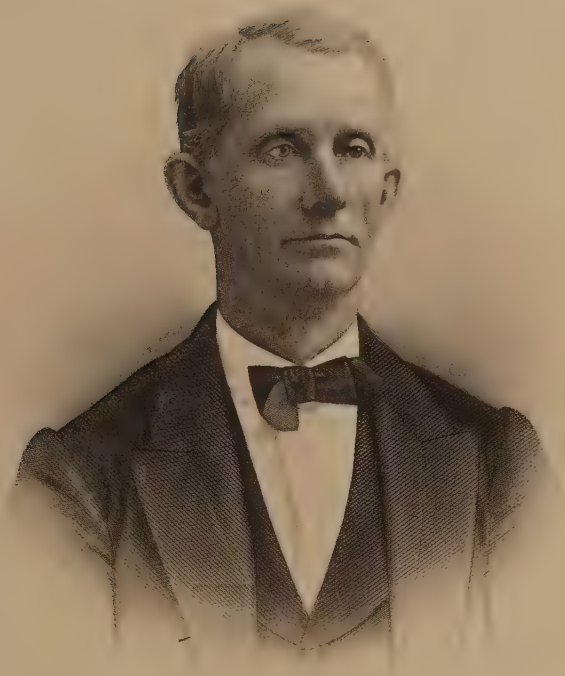
Among the first cases presented to this court for decision was one entitled In the Matter of Ralph (Morris, 1), involving very important as well as fundamental questions. Ralph, a colored man, who had formerly been the slave of one Montgomery in Missouri, made an agreement with his master in 1834, whereby he was permitted to come into the territory to reside, he stipulating to work in the lead mines and otherwise, and to pay to his master the sum of five hundred and fifty dollars, with interest, as the price of his freedom. Ralph failing to make payments, Montgomery caused proceedings to be instituted for his recovery and remand as a fugitive slave, before a justice of the peace, by whom the negro was accordingly delivered to the claimant for the purpose of being taken to Missouri. At this stage a writ of habeas corpus was obtained from the supreme court of the territory, at its first term, by David Rorer of Burlington. Upon the hearing it was claimed that by the Ordinance of 1787, and by the act authorizing the people of Missouri Territory to form a constitution—the Missouri Compromise Act of 1820—by coming to the territory with the consent of his owner under the ordinance and Missouri Compromise act, he was free. On the part of the claimant it was insisted, by Leonard and Berry of Dubuque, that it required legislation to apply the doctrine relied upon by the petitioner. The opinion of the court was delivered by Mason, chief justice, and holds that neither the Ordinance nor the Missouri Compromise act required any further legislation to make the same vitally effective; that they were self-executing provisions, and that the slave's coming with the consent of his owner into this territory, where they were in force, entitled him to his freedom, or rather, made him free.

David Rorer, the attorney for the applicant, was then a young man, but in that case he evinced the promise of his future by both his argument and his success. Mr.

Rorer is worthy of the most honorable mention in connection with his labors in laying wisely the foundations of our jurisprudence. He was one of the earliest lawyers in the territory, and came to be one of the strongest. His contributions to the law of the territory and state, not only in his arguments but in his legal authorship, entitle him to rank high among the founders of our jurisprudence.

At a subsequent term, the case of United States, ex rel. Davenport, etc. (Morris, 31), involving the action of commissioners in the location of the seat of justice in Scott county, was brought before the court by a proceeding in mandamus. The opinion in this case was also prepared by Mason, chief justice. It is quite an extended opinion and determines that the district court of the territory was clothed with power to issue writs of mandamus and that, while the supreme court might also have that power in respect of the conduct of its supervision over inferior courts, in the matter of the conduct of commissioners in locating a county seat, the supreme court had no original jurisdiction.

One of the attorneys in that case was **James Grant,** of Davenport, who afterwards established a reputation as a jurist of very superior attainments, not only by his service upon the bench, but by his very extensive and valuable service in connection with the most important cases before the supreme court of the territory, and also the supreme court of the state and of the United States. Judge Grant attained a reputation second to very few men in the nation, and is to be very largely credited with services valuable to the high character of our jurisprudence. Judge Grant was most laborious, energetic and industrious in his profession, and these characteristics led him often to cite numerous authorities. He was later, but early after the organization of the state government, possessed of a very extended library, quite surpassing that owned by the state at the capital, and this facility for the examination of the



James Grant

authorities perhaps contributed to what was sometimes deemed by the court excessive citations, some of which required something of reasoning and investigation to discover their adaptability to the point in controversy. His practice in the later years of his life was doubtless more lucrative than that of any other lawyer in the state, certainly down to that time, and it may be added without peril of error that he was fairly entitled to his success. He won it.

CHAPTER II.

EARLY CASES IN THE SUPREME COURT OF THE TERRITORY.

In Hight v. White (Morris, 45), which was an action in debt on a judgment rendered in another state, the declaration described the judgment to be for a certain sum, damages and costs. On the trial the attorneys for plaintiff offered the record of a judgment wherein the damages were for the precise amount stated in the declaration, and for the costs in addition thereto. The counsel for the defendant objected to its introduction on the ground of variance, but the court overruled the objection and rendered judgment for the plaintiff for the amount stated in his declaration. On appeal to the supreme court the opinion was pronounced by Williams, justice, and the point ruled can be best stated by an extract from the opinion of the court, to-wit: "The judgment described and that produced in evidence are essentially different, and there is weight in the argument, therefore, that, if the defendant below were again to be sued on the same judgment, he would find much difficulty in defending himself by producing proof of the recovery had against him here. Although, therefore, we are resolved to lend no countenance to those unmeaning

technicalities and absurd quibbles which, much to the discredit of the legal profession and to the prevention of justice, have in some countries been tolerated and even fostered, we are compelled to respect a salutary rule, although in some instances it may operate with severity and even seeming injustice." The judgment of the court below was therefore reversed. An examination of the decisions made by the supreme court of the territory will fairly show that the court did not lend countenance to technicalities, and that the decisions of the court will vindicate it from any accusations of being technical, although the common law obtained in the territory with all its strictness.

It is worthy of note that the counsel engaged in this case were David Rorer and H. W. Starr for the plaintiff in error, and James W. Grimes and M. D. Browning for the defendant in error—four of the strongest lawyers in the territory, and each of whom afterwards contributed quite as much to the wise laying of the foundations of our jurisprudence as any lawyers then or afterwards in the territory or state. We have before spoken of Mr. Rorer and his ability as a lawyer and as a legal writer. **H. W. Starr** was perhaps the most brilliant lawyer in the territory, or for that matter in the state afterwards. He was a man of broad culture and of extensive legal reading and experience; was possessed of an unusual share of legal acumen, and withal of sound, considerate and searching judgment. The measure of success and eminence attained by him did not equal that attained by some of his compeers, but this may be accounted for upon the basis of an unfortunate habit (a habit too frequent in our profession) which possessed him and very greatly dwarfed his usefulness in life. He was, however, very universally recognized as an able, profound and brilliant lawyer.

James W. Grimes will readily be recognized as the subsequent most excellent governor of his state, as well as a

faithful and efficient senator in the United States Congress. These distinguished positions attained by him, subsequent to the disposition of the case we are considering, are but indications of his breadth and strength and greatness as a lawyer. It was sometimes said by those who were acquainted with both James W. Grimes and Henry W. Starr, and who were contemporaneous with them, that the advantages at the start were decidedly with Mr. Starr. The early entrance into politics by Mr. Grimes after the admission of the state no doubt limited to a certain extent his usefulness and influence in connection with our jurisprudence; but up to the time of the devotion of his talents and energies to political matters there was no man in the state who surpassed him in contributions to our jurisprudence. It is not necessary to speak here of his history or of the marked ability which he exhibited in every position in life; for these are written everywhere in the history of the state, and need no repetition.

M. D. Browning was a worthy compeer with the others named in connection with this case. He did not possess the brilliancy nor the eloquence of Mr. Starr, nor did he rival Mr. Rorer in quaintness of manner and of expression; and perhaps he was not as strong in practical lines as Governor Grimes; but he was possessed of broad legal knowledge, and was a man of profound and considerate thought, and, with proper opportunities for preparation, he was as strong and forceful in his presentation of causes as any of his compeers, and we place him quite in advance of many of them. He continued in the practice of his profession, remaining all his life in Burlington, the capital city of the territory, and always one of the leading cities of the state. His contribution to our jurisprudence is probably in excess of either of those associated with him in the case under consideration.

In Matthews v. Talley (Morris, 159), a case involving the effect of a verbal agreement between attorneys in

respect of how the pleadings should be regarded, where the court below had refused to hear any evidence in regard to such verbal agreement, on appeal to the supreme court the judgment was affirmed, the court holding that it will refuse to hear proof of oral agreement between the contending counsel to treat the pleadings as amended when they are not so in fact. In this case the counsel were James W. Woods for plaintiff in error, and G. W. Teas for defendant in error. It is very interesting to call up in connection with these territorial cases the memory of counsel engaged therein. Such a review leads to the deliberate conclusion that the territorial bar as a whole was the strongest bar relatively which the state has ever had. **James W. Woods** resided at Burlington, and may well be listed among the strong men at the bar at that time. He continued to practice law down till his death, between one and two decades after the admission of the state, and was always a good lawyer. He was very popular with the members of the bar, and intensely so on all social occasions, since he was always provided with some illustrative anecdote, full of humor as well as pointing effectively to the incidents involved in the discussion.

Among the strongest men at that time may well be named **G. W. Teas** of Mt. Pleasant and **J. P. Teas** of Fairfield. They were brothers, and were often together in cases; but, whether together or separate, they were ever found well prepared for the trial of their cases and armed with every point available.

Another attorney who afterwards became very conspicuous in the history of the state and in the Civil War was **Hugh T. Reid** of Fort Madison, who was for one or two terms the prosecuting attorney for his district; and we find his name appended to numerous cases in the volume of reports containing the territorial supreme court cases. Mr. Reid was afterwards a successful financier and railroad builder as well as an able and patriotic supporter

of his country during the War of the Rebellion. He is mentioned here because of his contribution to the foundation of our jurisprudence.

It is not improper to mention also in this connection several attorneys of that time who contributed very much to our jurisprudence, and who afterwards became judges of the supreme court of the state, and will receive notice in connection with their services thereon. Among these will be found J. C. Hall, L. D. Stockton, Ralph P. Lowe, W. G. Woodward, S. C. Hastings, George Green, and George G. Wright, who afterwards adorned the supreme bench of the state and attained to national reputation as jurists. There were several others who adorned the district bench and contributed in a marked degree to the high character of our jurisprudence. Among these are Francis Springer, J. Scott Richman, William Smyth, H. B. Hendershot, J. P. Carleton and J. C. Knapp.

Notwithstanding the early legislation against the vice of gambling, it seems that cases found their way into the courts where the defendants were charged with that offense. In one such case (Harliss v. United States, Morris, 169) the indictment charged that the defendants bet a mare against a horse on the event of a certain horse race, and upon trial they were convicted and fined. On appeal to the supreme court of the territory the judgment of conviction was reversed, the court holding that the indictment for betting on a horse race cannot be sustained under the act against gaming; that a horse race is not a game of chance. **Curtis Bates,** another one of the strong men at the bar of the territory, whose home was at Iowa City, was attorney for the plaintiffs in error. Mr. Bates lived to a ripe old age and was prominent at the bar and active in its business for many years. He removed to Des Moines some years before the capital was located there, and continued prominent and successful in his profession. He was in 1855 a candidate for governor, but was defeated

by Governor Grimes. Curtis Bates was a sound and very considerate lawyer. He was deliberate and thorough in his investigation of cases and in their presentation to the courts. He always commanded the attention of the court, and his character was such as to add to his influence. He cannot be omitted from the factors contributing to the excellency of our jurisprudence. **J. P. Carleton** was the prosecutor for the district where the case originated, it being the Iowa City district, and conducted the case for the government as defendant in error. He was at that time recognized as one of the leaders of the bar, and was a man of high character, commanding the respect of every one who knew him, and was afterwards judge of the district court of the state. No man at the bar at the time commanded more respectful consideration than he. His service upon the bench was entirely acceptable to the bar, and contributed much to the wise foundations of our jurisprudence.

In the early days of the territory the sparseness of the population demanded hospitality on the part of the settlers towards travelers, and it was always extended with the greatest cordiality, and was the best within the ability of the entertainer to provide. But a case arose (Lyon v. Smith, Morris, 184) in which the plaintiff had been entertained by the defendant, not only himself, but his horses and equipments, and in the morning some bridles and a saddle were missing, and the suit was brought by the plaintiff to recover their value. It appeared that upon the occasion of the land sales at Burlington the defendant had entertained at different times five different persons who had paid their bills. The main question in the case was whether the defendant was an innkeeper; but the court held that a person who occasionally entertained travelers for pay is not an innkeeper within the meaning of the law, and if property is entrusted to his care by his guests and it is lost, he is not responsible as a common inn-

keeper, and the plaintiff failed in his action. The judgment of the supreme court on appeal was in accordance with the court below. **Morgan Reno** of Iowa City was the attorney for the defendant, and his success in the case (which must have been very close to the line) against the strong firm of Grimes & Starr indicates something of his character and standing at the bar. Mr. Reno was among the early lawyers of the territory, and contributed much towards our development and growth along legal lines.

CHAPTER III.

TERRITORIAL SUPREME COURT DISSENTING OPINIONS.

It is interesting to note some of the cases wherein the judges of the supreme court of the territory differed. In one case (United States v. Cropper, Morris, 190) where a question was presented as to the duties of the board of commissioners respecting the delivery of lists of grand jurors to the clerk, the opinion of the court was rendered by Wilson, associate justice, and a vigorous and somewhat extended dissenting opinion was delivered by Mason, chief justice. The particular point of interest in connection with the case and this division of opinion, two against one, is that the attorney for the plaintiff in error was **Ralph P. Lowe,** always a distinguished, able and successful lawyer, and who was afterwards governor of the state, and then judge and chief justice of the supreme court of the state, while his competitor, the attorney for the defendant in error was **W. G. Woodward,** a very highly cultured lawyer. He was a son of the plaintiff in the celebrated case of Woodward v. Dartmouth College—a leading case in constitutional law. He was afterwards one of the judges of the supreme court of the state, and he con-

tributed very largely to the growth and elevation of our jurisprudence. That the division of opinion among the judges was the result of a vigorous and able presentation of the case by counsel, afterwards very eminent, is undoubtedly true. These matters are intensely interesting to those who were acquainted with all the individuals connected with them and who have known the subsequent changes coming to each, and it is delightful now to remember that each and every one of them maintained his high character and served a long life of usefulness to the public and of honor to the state, without a stain or spot upon his record.

A case entitled United States v. Everest (Morris, 206), and involving question as to the competency of a witness, caused another and like division of the court. The question was whether a private prosecutor, on an indictment for larceny, was a competent witness, where the money stolen belonged to him, and, upon conviction, he would be entitled to recover from the defendant double the amount stolen, and, upon acquittal, be liable for the costs of the prosecution. The majority opinion was here, as before, delivered by Wilson, associate justice, Williams, associate justice, concurring, holding that the witness was competent. Chief Justice Mason delivered a most vigorous and extended opinion denying his competency. The dissenting opinion rested upon principle and reason rather than upon authorities, while the majority opinion cited several English and American cases. The counsel for the defendant was **J. C. Hall.** We have before referred to Mr. Hall as one of the strong lawyers of the territory, and indeed with respect to him the superlative degree may well be used, for he was a man of broad intellect and a most profound reasoner. He was afterwards on the bench of the supreme court, in connection with which we shall give to him more consideration. **Hugh T. Reid** was prosecutor for the district, and appeared for the

United States in the case. Mr. Reid was not only a strong lawyer but a strong and successful man in every way. He later attained much distinction, with some of his associates in Keokuk, in building and operating what was known as the Des Moines Valley Railroad. He was among the most prominent lawyers of the territory and state, and was an aggressive and useful citizen, and contributed his share fully to the furtherance and success of all interests submitted to him or in which he was engaged.

In another case (Chalfont v. United States, Morris, 214), at the same term, Mr. Reid again appeared as the district prosecutor, and was this time opposed to Grimes & Starr, who were the attorneys for the plaintiff in error, and he was again successful. The question involved in that case was as to the right of the territory to make it an indictable offense to cut timber off the school lands, and the court held that it was competent for the legislature so to do, and that it had power to punish all injuries to real estate as misdemeanors, even though the lands belonged to the United States. It would seem from the reports of the supreme court of the territory that the offense was not infrequent.

Another case (Lorimer v. State Bank of Illinois, Morris, 223), at the same term, conducted by Stephen Hempstead for the plaintiffs and Timothy Davis for the defendants, was one involving the jurisdiction of the district courts of the territory. The court held (what is now certainly a well accepted doctrine) that the district courts of this territory are not district courts of the United States, properly speaking, but territorial courts, having the powers of such courts. A later decision by the state courts (Wright v. Marsh, 2 Greene, 103) maintains the same doctrine. **Stephen Hempstead,** the attorney for plaintiffs in error, was one of the most influential citizens of the territory, and was thereafter governor. He was not only a strong man at the bar, but was a strong man in every

way, and he wielded an influence most potent for the welfare of the state and the happiness of its people. It is hard indeed to do approximate justice to the real merits and worth of such a man in the brief notice which must be given him in connection with this subject. His opponent, **Timothy Davis,** was also a man of large influence and great prominence in territorial and state affairs. He was also honored by his fellow citizens with public place, and, being more active, he wielded perhaps an equal influence for good.

As more or less confirmatory of the statement that, notwithstanding the strictness of the common law and its full force in the territory, the territorial supreme court was not technical in its decisions, but seemed determined to get at the justice of the particular case regardless of the technicalities presented, we refer to a case entitled Jackson v. Fletcher (Morris, 230) which afforded an opportunity for this liberal tendency of the court, and which was heard at the same term. Curtis Bates, afterwards the democratic candidate for governor in opposition to the republican candidate, J. W. Grimes, appeared for the plaintiffs in error and Ralph P. Lowe, Jacob Butler and J. P. Carleton appeared for the defendant in error. We have heretofore spoken briefly of each of these, except **Jacob Butler,** who was a lawyer of liberal education and nervously energetic. He was not only a strong lawyer among his territorial associates in the profession but he ranked abreast the first lawyers of the state later, and was speaker of the house of representatives of the state legislature and attained not only distinction in his profession, but became, for the time, a man of very considerable wealth. The holding of the court was that a clerical mistake in issuing a writ in assumpsit, where the precipe and the declaration show the action to be in debt, may be corrected by amending the writ to correspond with the precipe and declaration. And a writ of attachment and

the affidavit on which it is issued may also be amended. This liberality was certainly very great under the technical rules of common law pleading and attachment process.

A peculiar question arose in another case at the same term (Lorimier v. Lewis, Morris, 253), in which it was decided that the President of the United States has no power, by virtue of his office and independent of statute authority, to lease the lead mines in Iowa, and that there was no law in existence authorizing such leases. Timothy Davis and John B. Berry were opposing counsel in the case. Mr. Berry resided in Dubuque, as did also Mr. Davis, and the measure of his business would seem to indicate that he was equal in rank at the bar with his brothers in the same locality. In another case at the same term (Cropper v. United States, Morris, 259), Ralph P. Lowe appeared for the plaintiff in error and J. P. Carleton for the defendant in error, each being recognized as being in the very front of the bar for the territory and each afterwards very distinguished in his judicial services. The questions determined in the case were: That the confession of a prisoner will be received if that confession is not extorted by a threat of criminal prosecution; that a threat to sue for the property stolen will not exclude the proof of the confession; and that, if the jury fixes the imprisonment for petty larceny, it will be regarded as surplusage to the verdict of guilty, and the sentence considered as the act of the court. The strict accuracy of this expression, that the confession will be received if not extorted by threat of a criminal prosecution, must be construed to mean, as is determined by the court, that it must be criminal instead of civil in order to exclude; but not that it requires in all cases a threat of criminal prosecution to exclude.

In Humphreys v. Snyder (Morris, 263), a chancery case which was very strongly contested, the court, per

Williams, justice, held that an agreement between A and B that A is to execute a mortgage to B (as soon as he pays for and obtains title to the lot describing it) to secure the payment of a debt due to B, is not to be treated as a mortgage. A bill was filed for the complainants by R. P. Lowe, whom we have before mentioned as one of the ablest lawyers in the territory, and who afterwards became governor of the state and then judge of the supreme court and chief justice, and of whom we are to speak more hereafter. The defense was by S. C. Hastings, who was also afterwards judge of the supreme court, and of whom we shall further speak, and who was among the strong men at the bar in territorial days, with whom was J. Scott Richman, who was afterwards one of the judges of the district court of the state, and whose subsequent career of usefulness to our jurisprudence, both at the bar and on the bench, deserves the highest commendation—with such counsel the questions both of law and fact in the case must have been most ably presented. The opinion gives evidence of the most careful consideration to the case, and is perhaps one of the best opinions prepared by Justice Williams.

In Lowe v. Ganby (Morris, 281), a question of evidence was involved, and the holding of the court seems somewhat at variance with the subsequent holdings of the state supreme court and possibly with the rules of the common law. The holding of the court was that a plaintiff in an action of assumpsit founded upon a book account is not allowed, upon his own motion, to introduce his books of entry as evidence in his own behalf, and this because our statutes in relation to such evidence have changed the rules of the common law. The statute was peculiar in its provisions, and is worthy of having attention bestowed upon it to the extent, at least, of quoting it as we do, to-wit: "That upon the examination of either party upon the application of the opposite party, in any suit in any

court in this territory, said suit being founded on contract, should said party be unable to testify to the correctness or incorrectness of any item or items in the demand or setoff, the party wishing said demand or setoff shall be allowed to swear to the correctness of said item or items, provided they shall have been charged by him in a regular account; and he shall prove, by competent testimony, that he is in the habit of keeping his account or accounts correctly." This statute was held to cover the same ground as the rules of common law, and that it was of paramount obligation, and therefore superseded the common law. The court below held that the plaintiff was a competent witness in his own behalf in support of his book account, and on appeal this judgment was reversed. The attorneys for the plaintiff in error were Henn, Stockton and Morgan. **Mr. Bernard Henn** was a very prominent and successful citizen of Jefferson county, residing at Fairfield, and was an eminently successful business man as well as a careful and painstaking lawyer. He was afterwards a member of congress, and was the most successful operator in lands in the territory. His business success overshadowed his just claims as a lawyer, for that success ranked him as among the first business men of the territory. **L. D. Stockton,** one of his associates, was a recognized able lawyer residing at Burlington, who, while he was possessed of a pre-eminently sound legal mind, was not, as we sometimes say in these modern days, "a business getter," but his ability and fair professional success had gained for him recognition as a sound and worthy member of the profession. He was afterwards appointed by Governor Grimes to the bench of the supreme court in place of N. W. Isbell, resigned, and his career on the bench (for he was afterwards elected) places him among the strongest and soundest jurists of the territory or state.

In Cravens v. Cravens (Morris, 285), there appeared for the first time, so far as the public records show, in

the supreme court, **George G. Wright,** then a citizen of Keosauqua, whose subsequent career justly won for him a prominence among Iowa jurists. We shall have occasion to speak more of him later on, but we note here his appearance at the January Term, 1844, of the supreme court of the territory. He was successful in his case, and the holding of the court was that a mere verbal promise of A to borrow money and purchase lands of the United States in the name of B, does not constitute an agency, and cannot be the basis of a decree for the conveyance by A to B of the lands so purchased, upon a bill filed for that purpose.

In Clark v. Gibson (Morris, 328), decided at the same term, the court held that a verbal agreement between the plaintiff and defendant on a trial before a justice of the peace, that a verdict in his court should be final, may, if broken, be the ground of an action, but will not be allowed to be pleaded in bar of an action when removed to the district court by appeal. The judge trying the case in the district court had instructed the jury that, if they found such verbal agreement was made, they must find for the defendant, and that such verbal agreement was a circumstance for them to consider in bar to the action in the district court, and that parol testimony was competent to prove such agreement. In this case the attorneys were S. C. Hastings for the plaintiff in error, and Rorer & Whicher for the defendant in error. The judgment, of course, was reversed, as is evident from the foregoing statement. We have spoken briefly of S. C. Hastings and David Rorer. The other counsel, **Stephen Whicher,** was a lawyer of great industry and acumen. He was one among the most active and successful lawyers at the bar, and was one of the stars in the then Bloomington (but afterwards and now the Muscatine) galaxy of lawyers.

In Culbertson v. Tomlinson (Morris, 404), tried at the January Term, 1845, the question of the jurisdiction of a

justice of the peace was involved and, without stating the case further, we simply give the substance of the holding of the supreme court, which was that, where a suit is brought upon a bond in which the penalty is beyond the amount of the justice's jurisdiction, the case is cognizable before him, if the amount claimed does not exceed fifty dollars. The opinion was delivered by Mason, chief justice. The justice of the peace had held that he had not jurisdiction, and had granted a nonsuit. Ralph P. Lowe and Ebenezer Cook were for the plaintiffs and prosecuted this appeal, and James P. Carleton was for the defendant. One of the attorneys for the plaintiff (plaintiff in error also), **Ebenezer Cook,** was afterwards one of the leading men of the territory and of the state during the first decade of its existence. He attained a reputation as a financier surpassing that which he attained at the bar, although his standing at the bar was excellent. His brother, John P. Cook, afterwards became one of the very first and leading lawyers in the state. We shall have occasion to notice him later.

CHAPTER IV.

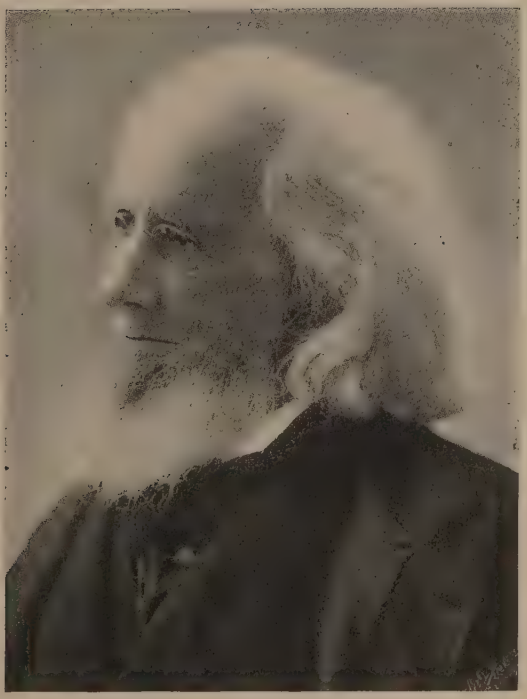
PERSONNELS OF CERTAIN LAWYERS.

In connection with the cases to which we have referred, we have had occasion to name many of the lawyers of the territory practicing in the supreme court, but have by no means referred to them all, nor perhaps to a majority. Among the lawyers who had recognition as being strong at the bar as well as broad and successful men, **Edward Johnstone,** at that time a citizen of Fort Madison, should be mentioned. His prominence in the territory, and afterwards in the state, was equal to that of almost any of his compeers. He became a citizen of the territory shortly

after its organization, and exerted a very potent influence upon the jurisprudence of Iowa. He did not depend upon his earnings as a lawyer for a living, and his services before the court were not as extended as many others, although he was appointed district attorney for the territory. He was also a member of the second legislative assembly of the territory, and was elected speaker thereof. He was a successful business man and one of the purest and best men with whom Iowa in its history has been favored. His family was somewhat distinguished in that two of his brothers were governors of different states, one of Pennsylvania and the other of California. He was a member of the convention which framed the constitution of Iowa in 1867, and was among the most influential men, if not the very most influential man, of that body, wherein were several who have contributed much to the political and judicial history of the state.

Daniel F. Miller, who in the territorial days was a citizen of Fort Madison but afterwards removed to Keokuk, was one of the most prominent men of the bar, and was surely and safely recognized as a leader at the bar. His practice was extensive and successful. He was a candidate during the early history for congress, and had a somewhat celebrated contest over his seat. He continued at the practice of the law down until his death, and was twice a member of the legislature—one term being after he had attained nearly eighty years of age, and fifty-three years after his first term. He was really and truly a stalwart man, a strong lawyer and a successful citizen.

Gillman Folsom lived at Iowa City and attained much distinction in his profession, and was prominent as an influential man, having an independence of character with a bold quaintness of expression of views, which gave him distinction, not only at the bar, but as a citizen and in the political arena. **Hugh D. Downey,** also of Iowa City, was at that time a member of the bar, but he gave up the pro-



DANIEL F. MILLER.

fession for the more attractive and lucrative one of banking, and he attained prominence in that line of industry.

William Penn Clark was a very successful practitioner as well as a prominent and leading citizen in the first capital of the state, Iowa City. He was really the leading lawyer of his home city. He was afterwards reporter for the state supreme court and discharged his duties in connection therewith promptly and excellently well, and with the universal approval of the bench and the bar. **James D. Templin** located in territorial days at Bloomington (afterwards and now Muscatine), and devoted himself to the practice of the law. He was a careful and painstaking lawyer. He was very industrious and won an enviable reputation.

Among the other strong men at the bar of the territory and of the state was **Platte Smith,** whose home was in Dubuque from the first and continuously. He was not a man of broad culture in the schools nor in books, but he had an original and legal mind that would shed internal light upon a question investigated by him. He attained a prominence at the bar as a strong, vigorous and sound lawyer, surpassed by none. We have spoken of George Green, who then lived in Dubuque, and was afterwards judge of the supreme court, but shall have more hereafter to say of him and his activity, usefulness and success upon the bench.

In those territorial days, at the capital of the territory, and at Iowa City, the first capital of the state, as well as at Bloomington (now Muscatine), a larger number of lawyers were gathered, and as a rule very strong lawyers, yet all the strong lawyers of the state were not in these three cities. The little town of Wapello in Louisa county was the home of **Francis Springer,** a lawyer of the highest character, whose abilities were so manifest at the bar that he was early placed upon the district bench, where he rendered for a long time the most acceptable and valuable

service to the jurisprudence of the state; and perhaps no man upon the district bench in the state has ever attained a more enviable reputation than Judge Francis Springer. There lived in the early territorial days at the delightful village, now city, of Mt. Pleasant, **William Thompson,** a man of great aggressiveness and force of character, and withal a proficient and successful practitioner. His aggressiveness soon placed him more or less outside the pale of the mere lawyer, for he attained to prominence in political affairs in the early territorial days and in the first decade of the state, whereby his name became familiar to all the people of the territory and of the state.

The village of Fairfield in Jefferson county, not very far removed from either Burlington or Iowa City or Bloomington, had its own galaxy of prominent and leading attorneys. **Charles Negus** was very prominent, not only in territorial days, but in the first and second decades of the state. He was a strong man mentally, and had his own way of presenting things, which way was the envy of his associates. He wielded a potent influence both in legal and political circles during his entire professional career.

Among the men most prominent in the state at the bar, in educational circles and in politics, was **Christian W. Slagle,** also of Fairfield. He had, as a partner, **George Acheson,** a man most highly esteemed by everyone who knew him, and whose career at the bar and in his own city and county might well be the envy of anyone. The firm of Slagle & Acheson was second to none in the state, and in their personal characters they were the favorites of all who knew them. They each made a great success in life, not only at the bar but in their influence upon all who came within its range.

The village of Keosauqua, on the Des Moines river, gathered early a number of lawyers who became promptly prominent and maintained that prominence during their

lives. Among them was **Augustus Hall,** a brother of J. C. Hall of whom we have before spoken and who was on the bench of the supreme court for a time. The prominence of Augustus Hall was not alone at the bar, but he wielded an influence in the affairs of the country and in political circles second to no man, perhaps, of his day. He was possessed of great mental power, and made himself felt in whatever circle he entered. We have referred to George G. Wright of the same village, and shall have more to say of him in connection with his service upon the bench. **Samuel W. Summers** was another lawyer of prominence there, whose practice was more or less extended, and who gave to his cases the most considerate care and attention, whereby he won success wherever it could have been gained by anyone.

Joseph C. Knapp was also one of the leading lawyers of the territory and state, then and always living at Keosauqua. We have spoken of him in connection with the district judgeship, to which we may refer more at length hereafter; but we may say of him here that he was endowed with a Websterian intellect, and in the judgment of many had the broadest and most profound conception and consideration of the law. He was not only on the district bench of the state, but he was United States district attorney for the district of Iowa for many years, and discharged the duties of that office with great fidelity and success. Judge Knapp's method of answering his opponent upon any question in a case was to take up in the opening of his reply the different points which the opponent had presented, weighing them and disposing of them, and then bring forward the arguments upon his own side. The greatness of his intellect and the profoundness of his thought was well illustrated in a case before Judge James M. Love of the United States district court, where a young lawyer had presented a question respecting the sufficiency of an indictment. He had made his argument in the best

way he could, and had submitted it to the court in the hearing of Judge Knapp. In reply Judge Knapp said: "The counsel for the defendant maintains, first"— and then stated in his own language what the position was, following it with the second position which the young counsel had assumed and stating that in his own language, and then the third position which, he likewise presented in the same way; and he had done it in such a vigorous and conclusive method that he stopped and was quiet for nearly a minute, and his own statement of his opponent's positions having been so much stronger than they had theretofore ever been put, he looked up to the court and said in his own peculiar way: "And I believe after all that he is right." James M. Love, of the United States district court in the early history of the state, took much delight in telling this experience, and added that he had not been moved by the presentation made by the young counsel who assailed the demurrer, and had himself only awakened to the soundness of the objections when they were restated to him by Judge Knapp in his own strong and conclusive way.

In the town of Tipton in Cedar county there was an attorney, **John P. Cook,** whose subsequent successful career at the bar was abundantly foreshadowed in the territorial days. John P. Cook came to be recognized as in the very front rank of the lawyers of the state, and his reputation as a man was also second to none. His brother, Ebenezer Cook, of whom we have before spoken, at an early period in the history of the state devoted his entire time, attention and energies to banking and land interests. The town of Tipton also had within it **William H. Tuthill,** a lawyer of success and prominence, who has left his favorable impress upon our jurisprudence.

Isaac M. Preston of Marion, in Linn county, was a pioneer lawyer who early attained an enviable standing at the bar. He was a very laborious, painstaking lawyer,

and his untiring energy brought him merited success and stamped its impress upon the early jurisprudence of the territory and state. The same city of Marion was the home also of **William Smyth,** a lawyer of culture and success, who early obtained a position on the district bench which he long honored with learning and integrity.

In the city of Ottumwa, at an early date in the territorial history of Iowa, there dwelt one, **H. B. Hendershot,** who was during his entire professional life recognized as a leader of the bar. His practice was extended, and he was thoroughly read in the law, and took a pleasure in its study and administration unsurpassed. He was afterwards on the bench of the district court, where his character and dignity as a man added to the healthful influence of his wise administration of the law; and no man is entitled to more credit for contributing to our jurisprudence in the best way within the range of his opportunities than Judge Hendershot.

CHAPTER V.

"THE HALF-BREED TRACT" AND OTHER CASES.

One of the most important cases, and perhaps the most important case which came before the supreme court of the territory, was Webster v. Reid (Morris 467). It involved the question of the title to what was then known as "The Half-breed Tract." The case was full of interest not only to the parties, but to a large number of people, and the questions involved in it did not cease to excite attention, not only with the lawyers and the litigants, but with a great many citizens, and indeed was at one time quite an element in political contests in that part of the state. Some of the facts connected with the case will be of interest to the reader always.

By a treaty concluded on the 4th of August, 1824, between the United States and the Sac and Fox tribes of Indians, the latter ceded to the United States all their lands within the state of Missouri, the northern line of the lands being along the north line of the state of Missouri and constituting the boundary between that state and what afterwards became the state of Iowa. The line of the lands extended east from the eastern boundary of Missouri directly across the Des Moines river and through what is now the state of Iowa, to the Mississippi river; but that portion of their lands lying in the limits of what is now the state of Iowa, and south of the line parallel with the north line of the state of Missouri, was not disposed of by that treaty.

Afterwards, on the 30th of June, 1834, an act of congress was approved relinquishing to and vesting in the half-breeds of the Sac and Fox tribes of Indians all the right, title and interest which might revert or accrue to the United States in the land included in the reservation as above specified, being all their lands in Iowa. With a view to ascertain who were the real owners of this tract, and to bring about a partition between them, the territorial legislature of Iowa on the 16th of January, 1838, passed an act providing for the appointment of three commissioners who should hold their sessions at the town of Montrose, and who should receive and record the evidence of all claimants under the act of congress aforesaid; that the commissioners should receive six dollars per day each for their services, which, with all other expenses, was to be paid by the sale of such portions of said tract as might be necessary to pay the same, the sales to be made under the order of the district court. Two of the commissioners, Edward Johnstone and David Brigham, served nearly a year. This act was repealed on January 25th, 1839, and, under a provision in the repealing act authorizing a suit in the district court of Lee county by the commissioners

for their several accounts, under a notice of suit directed, pursuant to the act, to "The owners of the Half-breed lands lying in Lee county," which designation and service were by the act declared to be sufficient—the commissioner, Edward Johnstone, recovered a judgment for twelve hundred and ninety dollars, and David Brigham for eight hundred and eighteen dollars. Afterwards executions were issued upon said judgments and were levied upon all the lands embraced within the boundaries heretofore described, the same being one hundred and nineteen thousand acres. The sheriff of Lee county, to whom the process of execution was issued, and who made the levies aforesaid, after advertising the same as was provided by law, sold the same to Hugh T. Reid for the sum of two thousand eight hundred and eighty-four dollars and sixty-six cents, which sum paid the judgments and all the costs, and the executions were duly returned; and after the expiration of one year, as provided by statute, the then sheriff made a conveyance of all said lands to the purchaser at said sale, Hugh T. Reid, who was the attorney for the plaintiffs recovering the judgments, and the judgments were duly satisfied of record.

The opinion of the supreme court of the territory in the case was announced by Mason, Chief Justice, holding, substantially, that the treaty of 1824 only affected the release of the title of the Sac and Fox tribes of Indians to the land in Missouri, and that it did not affect the lands in Iowa; that the act of congress of 1834 released the title of the United States to the half-breeds of the Sac and Fox tribes of Indians to the "reservation" as it was called, being the land situated in Iowa; that the Indians were to and did hold the land by the same title and in the same manner as other Indian lands are held; not as though they were a nation by themselves, but the treaty and the act invested the Indians with the title to all such lands, and the same was subject to sale as other lands; that, since the

act of congress of 1834, the half-breed tract has been to the fullest extent individual property; and under the organic act of the territory was placed under the municipal control of the territory of Iowa; that said act of congress was not a private but a public statute, and the courts would take notice of it without its being introduced in evidence. On the trial in the district court the defendant offered to prove that the judgments, executions, sheriff's deeds and sheriff's sale offered in evidence by plaintiff were all procured by fraud of plaintiff and others, and that the whole title of plaintiff was based upon fraud and fiction, which evidence was rejected. The supreme court held that such rejection was right and proper; that it was an offer to attack collaterally the judgment, which could not be attacked collaterally for fraud. The court further held that the service of notice, being made pursuant to the act of the territorial legislature, the original notice being addressed to "The owners of the half-breed lands lying in Lee county," was sufficient.

The defendant (who was the plaintiff in error in the supreme court) claimed a quarter section accurately described and embraced within the reservation, and he endeavored to show title thereto in himself. For this purpose he offered in evidence a deed from one Na-ma-tau-pus, and endeavored to prove that he was one of the members of the half-breeds of the Sac and Fox Indians, the owners. The principal witness on that subject was one who did not understand the Indian language. He testified that on one occasion he was in company of several whites and Indians, and that then this individual, Na-ma-tau-pus, was said to be a half-breed of the Sac and Fox tribes. At another time the witness took the acknowledgment of a deed from Na-ma-tau-pus, when he heard several persons (a number of whom were under oath) state that they believed him to be a half-breed of the Sac and Fox tribes. His complexion indicated him to be a half-breed. Witness

had also heard some persons who had married half-breeds make similar statements as to his pedigree. The court held that from the necessity of the case the same strictness of proof is not required in relation to pedigree as for most other purposes, yet that the best evidence which the nature of the case admits is required where hearsay evidence is allowed; that is, the statement of relations by blood or marriage, who are generally best acquainted with the facts they state; or, if it should be insisted that in view of the peculiar habits and manners of the Indians there ought to be a further modification of this rule of hearsay evidence, that at least the general reputation in the tribe might have been proved by persons who could understand the language. In view of all this, the court held that the district court rightfully ruled that the evidence as to Na-ma-tau-pus being one of the half-breed Sac and Fox Indians was not sufficient to establish the fact. The case was of course tried to a jury, and, under the instructions, which were in accord with what we have hereinbefore set forth, the jury found a verdict for the plaintiff, and judgment was rendered thereon. That judgment was affirmed by the supreme court in the case.

The appearance for the defense in the district court (the plaintiff in error in the supreme court) was made by **D. F. Miller** of Fort Madison and **J. C. Hall** of Burlington. We have before spoken of the great legal strength of each of these persons. Mr. Miller, especially, was a very active, vigorous lawyer and advocate. His breadth of capacity, supported as it was by his extensive legal knowledge and persistent industry, were almost invincible. Judge Hall we have spoken of before as one of the very strongest men in the territory, having a breadth of mental power not surpassed by any, but more or less likened to the broad capacities of Platte Smith and Joseph C. Knapp. The three would constitute a trio not surpassed in any territory or state in the respects we have mentioned. Mr. Miller never

became reconciled to the judgment in the case we are considering, and the memory of it remained with him during his entire life, nearly sixty years. Starr and Walker were the attorneys for the plaintiff (defendant in error) and of course that side of the case was also most ably presented. A review of the case and of the points made and positions assumed by counsel might, in view of the more modern decisions, suggest a query as to the failure to attack the sale for that it was a sale in gross of the one hundred and nineteen thousand acres of land under two separate executions, and for an inadequate consideration, all sold together, without first offering it in parcels. This point does not seem to have been made in the case, and yet if it had been a practical or available point at that day, it would seem that under the searching examination and towering ability of counsel it would have been made.

The peculiar conditions connected with the case suggest the defect in the organization of the courts for the territory of Iowa, which courts were organized in accordance with the universal rule down to that time. There were three judicial districts, each presided over by one of the judges. Appeals from the district courts were to the supreme court, made up of the district judges, and necessarily, therefore, the judge who had tried the case below would sit on the trial of it on the appeal. This defect of organization was perhaps unavoidable, and yet it was a serious defect, for that it is more than difficult for any man, however thoroughly judicial and impartial he may be, to avoid, in the review on appeal, a bias arising from his rulings and records nisi prius. As we have known Judge Mason, and as a result of that very intimate acquaintance, we are ready to affirm that, if any man was able to rise above such bias, that man was Charles Mason. We have neglected to state an important fact in connection with his subsequent career, and that is that he was the most able and successful commissioner of patents the

government has ever had. His mind moved in lines as exact, unvarying and unbiased as mathematical or mechanical lines. We see no occasion to question in the slightest degree the correctness of his opinion which we have undertaken as briefly as possible to outline.

We will not further discuss or refer to the cases decided by the supreme court of the territory, except to mention one other case (Miners' Bank v. United States, Morris 482), which involved a question in those days very prominent in politics, that is to say, the question of a bank charter. The action to which we refer was an information in the nature of quo warranto. The facts were that, before the erection of the territory of Iowa, and while it was a part of the territory of Wisconsin, the legislature of Wisconsin passed an act approved on the 30th day of November, 1836, whereby it incorporated "The President, Directors and Company of the Miners' Bank of Dubuque." By the twenty-third section of that charter it was provided: "If said corporation shall fail to go into operation, or shall misuse or abuse their privileges under this charter, it shall be in the power of the legislative assembly of this territory at any time, to annul, vacate and make void this charter." By an act of the legislature of the territory of Iowa entitled, "An act to repeal the said charter and provide for winding up of the affairs of the same," passed the 10th of May, 1845, the charter of the defendant (being plaintiff in error herein), was repealed. The question, of course, was, and perhaps the only question, whether the legislature of Iowa had the right to repeal a charter for any abuse or misuse of privileges thereby granted. This question, perhaps, divides itself into two branches; First: May any legislature repeal a charter because of abuse or misuse of its privileges, or should such misuse or abuse be established in the courts and, after judgment of the judicial tribunal whereby such abuse or misuse is established, might the legislature then repeal the charter? and, Second:

Could the legislature of the territory of Iowa repeal a charter granted by the legislature of Wisconsin, under a provision that it shall be in the power of the legislative assembly of this territory at any time to annul or repeal the charter? The court held that the legislature granting the charter surely and unquestionably, under the terms of the charter, had the power to repeal it, and that the legislative power of that territory had, by the organization of the Iowa Territory out of the part of the territory of the sovereignty which enacted the charter, succeeded to the powers of the legislature in respect of that territory, and could therefore rightfully pass the act. The power of the legislature to forfeit the charter or to repeal it was bottomed upon the terms and conditions of the charter. It is interesting to note that the opinion reflects something of the doctrines of the party opposed to the United States National Bank favoring the repeal of its charter. The writ of quo warranto was sued out by James Grant, the district prosecuting attorney, of whom we have before spoken, and who by his untiring industry and limitless investigation always presented with great fullness his cases. There was associated with him, Stephen Hempstead, afterwards governor of the state, of whom we have also spoken, and who was a tower of strength to any associate. The attorney for the bank was Timothy Davis. We have before spoken of Mr. Davis, who was not only a very strong man at the bar and a very proficient and successful attorney, but who was also afterwards a member of congress, and who exerted his influence and potency in the field of making the law, wherein he was as proficient as in the administration of it.

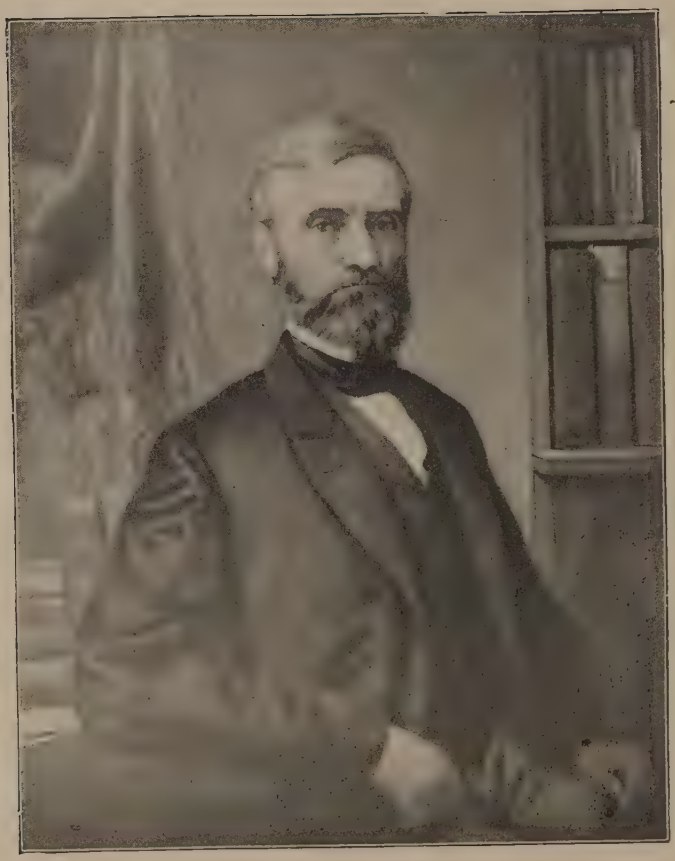
We have discussed as fully as necessary the decisions of the supreme court of the territory and have found that those decisions invariably manifested a full measure of legal learning, attentive consideration, and judicial prudence.

The successive governors of the territory were Robert Lucas, appointed by President Van Buren in July, 1838, John Chambers, appointed by President Harrison in March, 1841, and James Clark, appointed by President Polk in November, 1845. We need not discuss at any length the administration of these successive governors, the first and third of whom were appointed by democratic presidents and were aligned of course with them in their political sentiments, and the second of whom was appointed by President Harrison, a whig. He was also aligned as a whig in accordance with the sentiments of the president who appointed him. The governors were able and discreet men, and while Governor Chambers was of a different political party from the majority of the legislators of the territory, which antagonism occasionally led to differences, yet on the whole the administrations by the different governors were able, acceptable and conducive to the development and prosperity of the territory. It is worthy of remark that, during the entire territorial history of Iowa, the enactment of laws by the legislature was along discreet and prudent lines. The legislature was never betrayed into any excess in its legislative actions, and the trend of legislation and the conduct of the individual legislators were towards the development and growth of the territory and for the promotion of the best interests of its people, and such as to invite to it for settlement those who would be attracted by that kind of legislation. If there was any legislation of intense partisan or radical character, the prudence and equipoise and judicial temperament of the judges were such as that in the construction of the laws they were made to harmonize with one another and to conduce to the most healthful and beneficial results to the people. It is not fully appreciated by the people generally, as we think, how much they are indebted to the prudence and judicial statesmanship of the judges for the wise and healthful construction of the laws

which are passed by the legislature. Many of the laws might, by a hostile interpretation or construction by a court (if such a court can be conceived of), be given a meaning quite at variance with the intentions of the legislature, since it is possible to construe almost any statute passed with the highest beneficence of purpose in such way as to produce the most prejudicial results. The judges of the territory of Iowa were in accord and harmony with the legislators who enacted the laws, and if there was any incongruity or evil consequence concealed within the language of any act passed, the courts were cautious enough to so construe such legislation as to make it redound to the best interests of the people and to the growth and development of the territory. In all these matters the territory of Iowa and the new state were especially fortunate. The influences controlling the officers in each department of the government tended towards the best results. The high character and wisdom of the officers, together with their harmonious action and single purpose of promoting the best interests of the territory and its people, have redounded to the advantage of the people of the territory, not only, but also established a broad, intelligent and Christian basis for the state. We shall now turn our attention to the jurisprudence of the well nurtured and wisely installed new state of Iowa.

[After the foregoing had been prepared for some time, and when looking over my desk for a missing paper, I came across a paper prepared by myself some years ago pertinent to the subject in hand, and, at the expense of something of repetition, the contents of that paper are inserted for greater fulness as a part of this history.

It is fairly due to the three judges of the territorial supreme court who were of the past generation and century that this greater fulness of notice should be given to them, and hence it is inserted.]



CHARLES MASON.

CHAPTER VI.

THE JUDGES OF THE TERRITORY.

The first chief justice of the territory of Iowa was Charles Mason, of New York. He was appointed by President Van Buren, and took the oath of his office before the secretary of the territory of Iowa, on July 23, 1838. His associates were Joseph Williams, of Pennsylvania, and Thomas S. Wilson, originally from Ohio, both appointed at the same time with Chief Justice Mason. Thus our first supreme court was constituted of three men from three different states, each of whom became very prominent and useful in the history of Iowa, and they together constituted a territorial supreme court, equal in combined ability to any territorial supreme court in the history of the nation. In our brief outline of each, which is to follow, we will show their respective characteristics, and hence their combined strength. The decisions of that court which have come down to us are sufficient proof of the marked ability of the men composing it.

It is not the purpose of this paper to give the detailed biography of the judges of our first territorial supreme court, but rather to indicate the characteristics of these men, especially with reference to their judicial work.

Charles Mason was more highly favored in his early surroundings, and in his education and qualifications for his life work, than any other of the distinguished jurists who have graced the supreme bench of the territory or the state of Iowa. He was born in Onondaga County, New York, October 24, 1804. His parents were well to do, and his youthful surroundings comfortable; and of his ancestors it need only here be said that the remains of some of

them are found in Westminster Abbey. He had the advantages of the schools of his native place, and in 1825, being then in his 21st year, he was sent to the National Military Academy at West Point, where he graduated at the head of his class in 1829. After two years of work as tutor in that institution he returned to his home and pursued the study of law, was admitted to the bar, and practiced some two or three years, and then came west, spending a brief time in the territory of Wisconsin, of which Iowa was then a part, and thereafter, in February, 1837, settling in Burlington, then also in the territory of Wisconsin.

The territory of Iowa was organized under an act of congress passed in June, 1838. Directly thereafter, Charles Mason was appointed chief justice for the territory, and took his oath of office as such on July 23, 1838. As before stated, his associate justices were Joseph Williams and Thomas S. Wilson. The chief justice and associate justices held nisi prius courts in the different organized counties of the territory, each being assigned his district, and together, sitting en banc, they held the supreme court of the territory. The decisions of this supreme court, including those reported by Bradford and decided by the court in 1838 to 1841, are found in a volume reported by Morris, which contains the bulk of the decisions, although a few of the later ones are found in the first volume of Greene's Reports. These decisions, though necessarily made by the court without the aid of even a meagre law library, such as existed at that time, and without the advantage of precedents, not only show the legal learning of the territorial supreme bench, but also manifest the considerate and sound judgment with which justice, adapted to their pioneer conditions, was administered to litigants. They laid wisely and well the substratum of our jurisprudence. The decisions evince the versatility of the court, and many of them show most clearly the master

mind of the chief justice. We have already referred (page 5) to the first case reported in Morris, which shows the love of liberty and the fullest regard for the rights of man which have characterized not only the courts but the People of Iowa, in its entire history. The case was a proceeding by habeas corpus, in the matter of Ralph, a colored man, claimed to be a slave, who was brought by his owner from Missouri and retained by him in Iowa. The opinion was written by Chief Justice Mason, and it holds, in substance that, although Ralph, the applicant for discharge, was a slave and the property of his claimant in Missouri, being brought by his master to reside in Iowa, when the foot of the slave touched the enchanted soil of Iowa, the shackles fell, and, being once loosed, there was no power to replace them. The character and habits of industry of Chief Justice Mason are well verified by the fact that a large proportion of the decisions of the supreme court during the entire territorial history were prepared by him. The same character had been before well illustrated in his home schools, and in the Military Academy, where he ranked first, though such men as Jefferson Davis, Robert E. Lee, Leonides Polk and others were of the class. The same characteristics made him confessedly the best commissioner of patents which the nation has ever furnished.

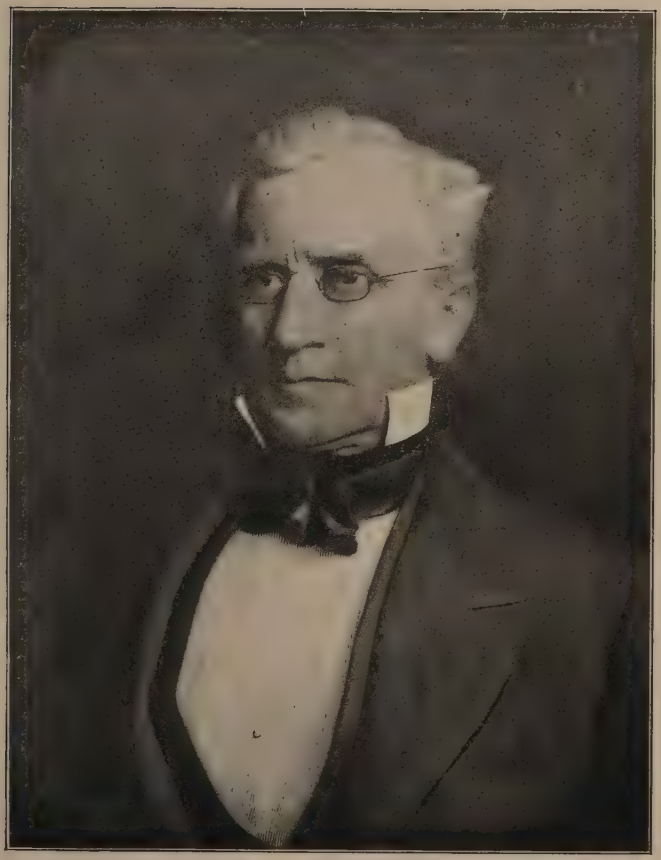
Chief Justice Mason was always faithful and successful to the highest degree in every duty to which he was ever called; and no man connected with the early history of Iowa was called to more or varied public duties than he. Judge Mason was not only a profound lawyer, but he was also a profound scientist and scholar. While considerate and gracious to his family and those about him, he was yet ever full of industry and of self-denial, a pure man and of most exalted character.

If I may be indulged in a personal reminiscence, having some association with the special subject in hand, I would say that one of the cherished remembrances and esteemed

honors bestowed upon me, was in being an associate in a candidacy for judge of the supreme court with Chief Justice Mason and Judge Thomas S. Wilson, two of the territorial supreme court judges of Iowa, whose reputations as jurists were firmly established and well recognized at the time; it being in 1859, about two years after I became a citizen of Iowa. That association gave me some opportunities for learning the real character of Judge Mason, and he impressed me as being essentially a great man.

By provisions of the first constitution of Iowa, all officers, civil and military, then holding their offices and appointments in the territory under the authority of the United States or of the territory, were to continue to hold and exercise their respective offices and appointments until superseded under the constitution. By the same constitution it was provided that the general assembly should elect the judges of the supreme court. That body failing to elect at its first session, the territorial judges were continued in office under the state constitution. Chief Justice Mason, however, resigned in June, 1847, and Associate Justice Williams was appointed chief justice in his place.

Hon. Jos. Williams was appointed from the state of Pennsylvania where he was born and had lived, and up to the date of his appointment, at which he was thirty-seven years of age, he was a stranger to Iowa and to the West. He was the oldest of the three appointees; Mason being thirty-four, and Wilson twenty-six, at the date of their appointment. Judge Williams had not the advantages of a college education, but his early education was substantially like those of the youth about him, and he had the advantage of associating in his early manhood, and especially after his admission to the bar, with the most cultured men of that day; and in his associations connected with the practice of his profession he was especially favored. He had enjoyed quite an extended practice, and at the time of his appointment was engaged in the practice of law at



Yours with sincere Esteem

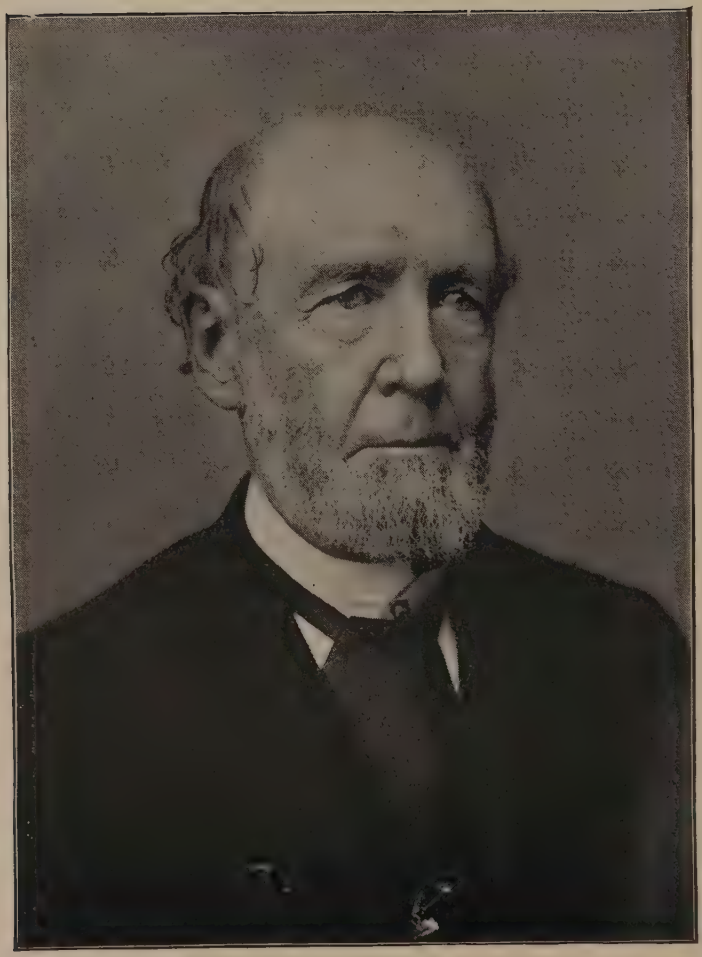
J. W. Williams

Hollidaysburg, Pennsylvania. One of his associates during the period of his study of law was Hon. Jeremiah S. Black. He was always his friend, and contributed very much to securing his appointment as judge for the territory of Iowa. The fact that Judge Williams was an intimate associate of Judge Black, a most distinguished jurist, and in every way a learned and great man, and who was always his friend, goes far to establish, not only his character and legal learning, but his worthiness in every way for the place to which he was promoted by President Van Buren.

Judge Williams was a well-read lawyer before he began the practice, and his experience in the practice in the midst of his surroundings was more valuable to him than ordinary culture. His versatility in the knowledge of law, with his personal characteristics, well fitted him for the bench. Judge Williams can not properly be characterized as a close student of the law, not possessed, even approximately, of that knowledge of law which characterized his associate, Chief Justice Mason; but Judge Williams was possessed of a vigorous and active mind, and with a great readiness of apprehension, and he could from his own mental resources clothe an important fact, proven in a case, with its natural and almost necessary surroundings, and was enabled thereby to measure very promptly, and with much more than the average accuracy, the facts of any case presented to him. He was a wit, humorist and a musician. He was always hailed with delight by his acquaintances, and was, when off the bench, one of the most jovial and companionable men ever found in the territory or state. These characteristics made him one of the best judges of human nature, and this knowledge of human nature is a very important element in the qualifications of a judge. While Chief Justice Mason would, by his powers of logic and profound knowledge of law, be able to arrive at a sound and reliable conclusion respecting the law, the

knowledge of Judge Williams of human nature, and the force and effect to be given to the testimony of witnesses by reason thereof, would enable him to deduce from the testimony in the case the more reliable basis of fact whereon to rest his legal conclusion. The personal characteristics of Chief Justice Mason and of Judge Williams were antipodal. Judge Mason was the austere, always erect and dignified man, either in court or out; while Judge Williams would maintain equal dignity in the court, yet, when off the bench, he was always a hail fellow well met. His fund of anecdote was inexhaustible, his fondness for music insatiable, and, with a violin in his hand, his power to amuse and interest was unlimited. It is fairly questionable whether any man, before or after him, ever possessed an equal measure of judicial dignity when his position required it, and at the same time, under suitable circumstances, could entertain and delight with his inimitable stories relating to personal incidents.

The appointments to the territorial bench were made for four years, but each of the judges of the Iowa territorial court appointed by President Van Buren was reappointed afterwards by President Tyler. It is understood that Chief Justice Mason did not expect or greatly desire a reappointment; but Judge Williams was very solicitous for his reappointment. To secure such reappointment, he journeyed from Muscatine, Iowa, his residence, to Washington, D. C. On his way, while traveling in a stage coach with, among others, a well-dressed and interesting lady, he made himself considerate and sociable to the lady and to his other fellow travelers, and communicated his position and the purpose of his journey to them all. Arriving in Washington, he went to the White House and called upon President Tyler, and was greeted by him most cordially; and on communicating to the President the purpose of his visit, was told by the President, "That matter is all fixed to your satisfaction, Judge." Then he expressed the



Your friend
T. L. Wilson

desire for the reappointment of his associates, and was told, "That matter, too, you will find to your satisfaction, Judge, I have reappointed all three of you." He was then asked to step into an adjoining room to meet one who would be much pleased to see him, and, on entering the room, he met the lady who had been his traveling companion, and to whom he had made himself agreeable, and was introduced to her as Mrs. Tyler, and she greeted him with the suggestion, "I hope you have found everything to your satisfaction, Judge. I spoke to the President upon my return, and he promised he would reappoint you and your associates." It should be stated, to give the incident added force, that Judge Williams had no knowledge, intimation or suspicion whatever as to who the lady was until he met her at the White House. The incident shows well Judge Williams' power to please, as well as his readiness always to exercise it.

After Judge Mason resigned his position as chief justice, which was six months or more after the admission of the state of Iowa into the Union, Judge Williams was appointed chief justice in his place. He was afterwards made judge in the territory of Kansas. Subsequently, and during the Rebellion, he was made judge of a United States Court held in Memphis, Tennessee, where he discharged well his duties, and enjoyed the opportunity afforded thereby of meeting many of the soldiers from Iowa and his old home acquaintances. He died in March, 1871, and lies buried in the cemetery on the Bluff in Muscatine.

Judge Thomas S. Wilson, the other member of the territorial supreme court, was born at Steubenville, Ohio, October 13, 1815. He was favored with a liberal education. After enjoying the advantages of the excellent schools in the city of his birth, he attended and graduated at Jefferson College, Pennsylvania, not very remote from his native place, although in another state. He graduated in 1832, and after pursuing the study of law for two years

in his home city, he was admitted to the bar and began practice at Steubenville, Ohio, in partnership with Gen. Stokely, a man eminent both as a citizen and lawyer. His success at the practice was satisfactory to him, as it was to his friends, and yet, contrary to their advice and wishes, he determined to go West, and did so in 1836. His brother, Captain George Wilson, of the first U. S. Infantry, under command of Colonel Zachary Taylor, was at Prairie du Chien, and Judge Wilson, with his wife, went there for the purpose of surveying from that point the advantages of a location for him in his profession. He decided to locate in Dubuque, then in Wisconsin Territory, and removed there in October, 1836. He continued the practice of law there until his appointment as judge. He was fortunate in obtaining business in his profession, and he continued in the practice, having business in Dubuque, Mineral Point, Lancaster and Prairie du Chien, until his appointment to the bench, which was early in July, 1838. His appointment came to him without his being a candidate therefor, and was made without his knowledge. This fact speaks volumes in his praise, and is an assurance of his high standing at the bar, as well as his recognized legal learning. He continued on the bench of the territory until the state was admitted. His first appointment was for four years, and at the expiration of that time he was reappointed by President Tyler. This reappointment was without opposition, but was in accordance with the wishes of those among whom he discharged his duties.

Judge Wilson was not a man of ostentation either in his social or professional intercourse. He laid no claim to genius, and made no effort to secure recognition through efforts at brilliancy or attractive oratory. He was a plain, practical and industrious man, with excellent native judgment, which was enlightened by a thorough school and college culture, and to which was added a close and accurate knowledge of law. His practical judgment, with his

knowledge of law, constituted him a most important part of the supreme bench of the territory. He had not the thorough and profound knowledge of the sciences, as had Chief Justice Mason, nor had he the brilliant parts in social relations possessed by Judge Williams, but he was a young, industrious, painstaking and careful judge, and these characteristics were appreciated by his associates, and gave him equal rank with them among the members of the bar and the people.

The first court held in the territory of Iowa was held by Judge Wilson at Prairie la Porte, now Guttenburg, on the second Monday in November, 1838. The state of Iowa was admitted into the Union by an Act of Congress approved December 28, 1846. But by the provisions of the constitution of Iowa, before referred to, the officers then holding office under federal appointment were authorized to continue to hold and execute their respective offices until superseded by appointment, or by election under the constitution. Judge Wilson continued to hold the office of judge under his federal appointment until October, 1847, when he resigned. As hereinbefore stated, Chief Justice Mason resigned as chief justice in June, 1847, and Judge Williams was appointed in his place as chief justice, and Hon. John F. Kinney was appointed associate justice in place of Judge Williams in June, 1847, so that for a time the supreme court of the state was composed of Joseph Williams, Chief Justice, Thomas S. Wilson, and John F. Kinney, Associate Justices. After retiring from the bench, Judge Wilson returned to the practice of law at Dubuque, and there were associated with him, as partners, his brother, Hon. D. S. Wilson, and also Platte Smith, Esq., both of whom attained high distinction and an enviable reputation in practice.

The value of the services of Judge Thomas S. Wilson were, however, both appreciated and remembered by the people. He was in April, 1852, elected, without opposition,

judge of the district court of the state for that district and was continued by successive elections, and held the office of judge until January 1, 1863, having served over twenty years as judge. His administration of the office of judge in the district court of the state was acceptable and well approved, and it is stated that during his office on the district bench of the state he had fewer of his judgments reversed, in proportion to the number of appeals, than any other judge in the history of the state, and that, of the many appealed from his court, less than ten were reversed during all his service. Judge Wilson also served his people in two consecutive terms of the state legislature, embracing the Eleventh and Twelfth general assemblies held, respectively, in the years 1866 and 1868. Judge Wilson died at his home in Dubuque, May 16, 1894.

CHAPTER VII.

CHANGE FROM TERRITORIAL TO STATE GOVERNMENT.

The people of the territory of Iowa were neither superior to nor different from the people of other American territories both before and since, in respect to the early agitation and efforts for a constitutional convention. This is made apparent from the fact that the territory was admitted in June, 1838, and in December, 1841, the governor recommended to the legislature the submission of the proposition to the voters for a convention to frame a constitution preparatory to admission as a state. This recommendation was adopted by the legislature, and in order that the affairs might not be unduly delayed, the legislature provided that if a majority of the votes were cast for the constitution, then an election for delegates should occur in the October following, and a convention be held on

the first Monday in November thereafter. Other provisions were made by the act for completing the work of the convention and its submission to the people. It so happened, however, that at the election to determine whether a convention should be held, a very large majority of the votes were cast against such convention. At the legislative assembly which convened in December, 1843, another act was passed for submitting to the people a proposition to frame a constitution for the state government at the election held in April, 1844. Under that act the people voted, almost two to one, in favor of the convention to form a state constitution.

Pursuant to that vote, a constitutional convention was assembled at Iowa City in October, 1844, and it proceeded to frame a state constitution. This constitution provided for the boundaries of the state substantially as they now are. It was forwarded to Hon. A. C. Dodge, our delegate at that time in congress, to be by him presented to Congress for approval. Congress, however, declined to approve the boundaries. At that time the strife was very strong between the south and the north in respect to the number of states and the extent of territory each should contain, because of the supposed influence such facts would have upon the final conflict in congress upon the subject of slavery extension and in maintaining the then supremacy of the south. For this or some other cause, sufficient in the estimation of the members of congress, the boundaries fixed by the constitution were so changed as to materially reduce the territory of the new state. The boundary as fixed by congress placed the western line of the state of Iowa about forty miles west of Des Moines, but including about three tiers of counties in the southeast portion of what is now Minnesota.

Upon the submission of the constitution, which was had pursuant to the act of congress, the constitution was rejected. This was done manifestly because of the de-

termined objection and hostility to the new boundaries, as fixed by congress, and not because of any provision in the constitution itself. At this election the constitution so submitted was rejected by a majority of about one thousand. Much credit was given by the opponents of the constitution, and to the boundaries fixed therein, to Enoch W. Eastman, Theodore S. Parvin and Frederick D. Mills for their efficient aid in defeating the constitution. Notwithstanding this defeat, the legislature at its next session passed an act providing that the constitution should again be submitted to the vote of the people, with the boundaries as fixed by the constitutional convention; a provision in the act being made that the admission as provided by the constitution should not be final until the conditions or changes of boundaries should be approved by congress. Under this act the constitution was again submitted and was again defeated by a majority of about two hundred less than on the first submission.

Among the leaders in that convention, who took an active part therein and wielded a controlling influence, were some of the lawyers whom we have heretofore named in connection with the jurisprudence of the territory: James Grant, Ralph P. Lowe, Shepherd Leffler, J. C. Hall, Ebenezer Cook and others.

The last territorial legislature met on December 1, 1845, and, among other acts, passed an act providing for another constitutional convention to meet in May, 1846, to frame a constitution which should be submitted to the vote of the people for adoption. Under this act the convention met at the time fixed and proceeded to frame a constitution, which was submitted to the people and by them adopted. Under that constitution thus framed by the convention and adopted by the people, an election for state officers was held on the 26th of October, 1846. All the offices provided for by the constitution were filled by the election, except the chief justice and the judges of the

supreme court, which officers, pursuant to the constitution, were to be elected by the joint sessions of the two houses of the general assembly. It was provided by that constitution that "all officers, civil and military, now holding their offices and appointments in this territory, under the authority of the United States, or under the authority of this territory, shall continue to hold and execute their respective offices and appointments until superseded under this constitution."

Among the delegates to that convention were several lawyers of ability and prominence in the territory whom we have heretofore referred to. Among them were James Grant, Shepherd Leffler, Curtis Bates, J. Scott Richman and others. William Thompson, a lawyer of Mount Pleasant, was the secretary of the convention.

It so happened that the two political parties then controlling the country, known as Democrat and Whig were more nearly evenly divided in the territory than they had been theretofore. The democrats had a majority in the senate, while the whigs had a majority in the house. This antagonism of politics between the two houses became a stumbling block, and really an embargo, upon the election of the judges of the supreme court. The failure to agree by a majority upon any one candidate left the offices of the chief justice and the associate judges of the supreme court vacant. But the provision of the constitution, framed by the convention and adopted by the people, which provided, as hereinbefore specified, for the continuance in office of the territorial officers, including the chief justice and associate justices, proved to be wise, and found early and important application. Those officers continued to fill the bench of the supreme court as they had theretofore done so that, by the election, the state was fully provided with all its officers.

It will, doubtless, be noticed that the election of state officers under the state constitution, which election was

held on October 26, 1846, was two months before congress had approved the constitution or admitted the state into the union, this latter occurring on the 28th day of December, 1846. So that, practically, the state government was duly organized and became effective about January 1, 1847.

The judges of the supreme court thereafter, and at the beginning of the state government, were the same as they had been during the entire period of the territorial government, to-wit: Charles Mason, chief justice, and Joseph Williams and Thomas S. Wilson, associate justices.

Charles Mason, the chief justice, resigned his office as chief justice in June, 1847, and Joseph Williams was appointed by the governor, the same month, for the unexpired term of Charles Mason, which term would expire when the legislature should elect a chief justice under the constitution. We have heretofore spoken of **Judge Williams** in connection with his appointment to the associate judgeship of the territory. It is but fair to Judge Williams, however, in view of his growth as a judge and his increased attainments, that we should speak of these further. During his administration of the office of chief justice of the state supreme court he grew not only actually as a lawyer and a jurist, but also in the estimation of the bar and of the people of the state. Some of his opinions, to which we will have occasion to refer, evidenced most manifestly his growth and strength as a judge and the vigor manifested in the handling of constitutional questions especially. At the expiration of the time to which his appointment by the governor would extend, being the close of the year 1847, he retired from that office. After the lapse of one year he was elected in December, 1848, by the joint vote of the general assembly to the office of chief justice for the state for six years from the 15th of January following, 1849. Chief Justice Williams served out that full term with marked acceptability to the pro-

fession and the people. Chief Justice Williams was a man of great readiness of apprehension, with perhaps a little floridity in his style, and was distinguished for his social qualities. It is seldom that we find these characteristics more fully developed or more harmoniously blended than they were in Judge Williams. They not only enabled him to maintain himself in the territory and state of Iowa, but after the close of his full term as chief justice, and when the political conditions in Iowa were such as to preclude his further advancement or continuance in office here, he was in 1857 appointed by President Buchanan to the office of associate judge of the territory of Kansas, and he discharged well the duties of that office during the term of his appointment. It seems a little strange at this distance of time, and without any actual knowledge of the facts, that, while Chief Justice Williams was appointed to the associate judgeship of the territory of Kansas by President Buchanan, after the close of his duties in connection with that office, he was appointed by President Lincoln to the position of United States district judge for the state of Tennessee. The fact that the two successive appointments came from the leading representatives of the two opposing political parties at the time, does not necessarily imply a change of political sentiment by Chief Justice Williams; but rather that, as a democrat, he was, at the time of the election of Mr. Lincoln, more in accord with the Douglas line of democracy, which naturally led him to the support of President Lincoln and his administration. We refer to these subsequent appointments more or less to verify our analysis of his character, and to show the natural and continued popularity which characteristics like his ordinarily bring to their possession, and which his really did bring to him.

Among the chief justices of the supreme court of the state of Iowa in its early history was **S. Clinton Hastings,** who had been a citizen of the territory of Iowa before the

organization of the territorial government. He located in 1837 at Bloomington (now Muscatine), and began the practice of the law, wherein he was not only prominent but successful. Among his associates of the members of the bar, coming after him and among whom he was regarded as the peer of any, we mention the following, who will be readily recognized together as constituting a strong bar for any county in a territory or state, to-wit: Ralph P. Lowe, Stephen Whicher, Wm. G. Woodward, Jacob Butler, J. Scott Richman, James L. Palmer, Irad C. Day, James D. Templin. During his residence at Bloomington, and before he was made chief justice, he was a member of the house in the territorial legislature, and also a member of the council for four terms, and president of it one term. Among his collateral labors in connection with his profession was the completion and publication of the Laws of Iowa in a volume which was termed the "Blue Book," in which work he was associated with James W. Grimes. In January, 1848, he was appointed by the governor to the office of chief justice of the state, which office he held for one year; and at the close of his term of appointment he was succeeded in that office by the election on joint vote of the two houses of the general assembly, by Chief Justice Joseph Williams, so that he was both preceded and succeeded in that office by the same man. Chief Justice Hastings was a man of sanguine temperament and great versatility of learning, which was ripened by his position and service as principal of one of the leading academies in the state of New York. He had also been editor in chief of a leading newspaper in Indiana during the presidential contest resulting in the election of Martin Van Buren.

The capabilities and attainments of Chief Justice Hastings and the characteristics which we have mentioned kept him before the public in a prominent way for many years. After the expiration of his term as chief justice of the supreme court of the state of Iowa, he re-

moved to California, and there became the attorney-general of that state, and afterwards the chief justice of its supreme court. He lived to a ripe old age, and was continually useful and in active public life for more than sixty years. We shall have occasion hereafter to note more of his characteristics as a judge, when we shall call attention to his opinions.

CHAPTER VIII.

THE EARLY JUDGES OF THE SUPREME COURT OF THE STATE.

Among the associate judges of the supreme court of the state during the periods covered by the administration of the office of chief justice by Charles Mason, Joseph Williams and S. Clinton Hastings, was **Thomas S. Wilson.** Judge Wilson became associate justice on the bench of the supreme court of the state of Iowa by virtue of his appointment as one of the associate justices of the territory and a provision of the constitution which continued the judges in office until their successors were elected by the state.

By reason of the political conditions of the two houses of the general assembly of the state of Iowa at the organization of the state in January, 1847, Judge Wilson continued to hold the office of associate justice until October, 1847, when he resigned. We have before spoken of Judge Wilson and his early liberal education and eminent service on the bench of the territorial supreme court. His administration of the office of judge of the supreme court of the state was equally able and acceptable. Judge Wilson settled in the territory, afterwards organized as the territory of Iowa, in 1836, at Dubuque, and continued his residence there until his death. As indicating some-

thing of the high esteem in which he was held, it may be said that he came within one vote of the nomination for United States senator. His successful competitor was George W. Jones. After his retirement from the bench of the supreme court of the state, he continued the practice of law until 1852, when he was elected to the district bench of his district, which office he held for about eleven years, afterwards returning to the practice of the law. His service on the bench and at the bar continuously covered a period of fifty-eight years. Judge Wilson had the advantage of a good education, and he was always a student and a man of eminently practical training, of unquestioned integrity and persistent industry. We have referred to some of his opinions in the territorial period manifesting his learning and sound judgment. We may have occasion to further refer to his services on the supreme bench of the state.

When in June, 1847, Joseph Williams was appointed chief justice in place of Charles Mason, resigned, there was created a vacancy in the office of associate justice of the supreme court. To fill this vacancy the governor, in June, 1847, appointed **John F. Kinney,** of Lee county, associate justice of the supreme court. This appointment, under the law, lasted until the close of the year 1848. In December Judge Kinney was elected by joint vote of the general assembly to the office of associate justice of the supreme court for the full term of six years, from January 15, 1849.

When in October, 1847, Judge Wilson resigned his office of associate justice, the governor, to fill the vacancy thus created, appointed **George Greene,** of Dubuque. Judge Greene was of English birth, and manifested in his life work, more or less prominently, the characteristics of his nativity—especially great industry and persistence. He came with his father in his early youth to this country and studied law in Buffalo, New York, and came to Iowa

Geo Greene

in the spring of 1838, before the territory was organized. He stopped in Iowa first at Davenport, and after he was admitted to the bar, which was in 1840, he began his practice in Marion, Linn county. Judge Greene was a man of marked ability; and his neighbors, ascertaining this fact, elected him a member of the territorial council, and he served two sessions. Afterwards he moved to Dubuque, about 1845, and was engaged as editor of the "Miners' Express," a newspaper published there, which he conducted successfully for about three years. As before stated, he was appointed by the governor as one of the associate justices of the supreme court in October, 1847. This appointment only extended until the close of the year 1848, and Judge Greene was elected by the joint vote of the two houses of the general assembly in December, 1848, as associate justice of the supreme court for six years from January 15, 1849, and he served out his entire term. Judge Greene had the advantage of an excellent and thorough early education, and his untiring industry, together with his marked ability, soon marked him as leader, very largely, of the court of which he was a member. He prepared many more opinions than either of his associates, and they all evidence the marked ability with which he was endowed.

In January, 1854, Judge Kinney resigned the position of associate justice of the supreme court, and **Jonathan C. Hall** of Burlington was appointed to fill the vacancy. Judge Hall served until the close of the term of Judge Kinney, being about one year. We have, in speaking of counsel appearing before the supreme court of the territory of Iowa in the argument of cases, referred to Jonathan C. Hall as a man of marked ability and personality. Evidently he had impressed his compeers with his ability, for he was in both the state constitutional conventions—those of 1844 and 1846. He had a large practice, and ranked as second in point of ability and legal learning to no one in the territory.

A little family reminiscence may perhaps be properly given here. Jonathan C. Hall was an elder brother of Augustus Hall of Keosauqua. He was, perhaps, the equal of his elder brother in point of ability, and possessed a little more activity. These were the brothers of the wife of Judge Jonathan Kinney of Lee county, and also brothers of the wife of William Thompson in Henry county. These four able men, and those related, were located in adjoining counties in the southeast portion of the territory and state, and every one of them has left his impress not only upon the jurisprudence of the territory and state, but also upon the political and material history of both.

In writing the history of the Jurisprudence of Iowa and of those who shaped it, one is almost compelled to arrange the former in periods, and to classify in groups the men who wrought out its symmetrical structure. We have already given a history of the territorial period and of the men who so faithfully labored in framing the jurisprudence of the territory. The men on the supreme bench of the territory are certainly to be commended, and no one can read the account of what we have written without being impressed with the duty of declaring "well done" by those who wrought in that period and in that class.

The next natural division or period extends from the close of the territorial period down to the election of an entire bench by the joint vote of the two houses of the legislative assembly of the state in 1855. The close of this period marks a change in the political complexion of the territory and state, at which the democratic appointees and electives by joint vote retired, and an entirely new set of judges of the supreme court was elected by the republican party.

We refer to the political fact, not as indicating at all that politics entered into or colored in the least the character of our jurisprudence or the decision of individual or particular cases, but because that time marked a change in

the personality of the judges of the court, and more or less this change impressed itself upon the public and had its influence, of course, upon our jurisprudence.

We have hereinbefore, in discussing the individuals appointed or elected to the position of chief justice and also of associate justices, given a faithful statement respecting each of them, and their fitness, and the acceptability of their service and their attention to the several offices to which they were elevated. So far, then, as to the personality of the supreme court for the two periods, the first, the territorial period, extending over a little more than eight years, and the second, a similar period of about the first eight years of the state government. We deem it, therefore, practical to stop here and discuss the divisions and the means whereby our jurisprudence was completed as it grew and was formed during this period and under the judges we have named.

At the January, 1847, term of the supreme court there were but four cases determined. The judges at that term, as the reader will remember, were Charles Mason, chief justice, Joseph Williams and Thomas S. Wilson, judges. At the July term, 1847, the personnel of the court had changed, so that the judges were Joseph Williams, chief justice; Thomas S. Wilson and John F. Kinney, judges. At this term Burrows v. Goodhue (1 Greene, 48) was decided, involving the construction of the statute respecting the manner of taking depositions. The statute prohibited the attorney of a party from acting as scrivener in writing down the testimony of the witness taken by authority of a dedimus. At the trial, the plaintiff had offered a deposition of one of his attorneys with whom the note in suit had been left for collection. The attorney, when giving his deposition before the commissioner, had written out his own testimony, and it was contended by the defendant that the deposition should be rejected because one of the attorneys for the party had written down the testimony

contained in it. The court below overruled the objection and permitted the deposition to be read, to which the defendant's counsel duly excepted. This ruling was assigned as error in the supreme court, and a reversal was asked because of it and other assigned errors.

The opinion of the court was prepared by Williams, Chief Justice, in which the ruling was held to be correct. The language used by the court was as follows: "Having been summoned to testify, he appeared before the commissioner and committed his own evidence, in answer to the interrogatories propounded by the parties, to writing, in due form of law, all which has been properly certified by the commissioner, as appears by the return. This is, then, the case of the witness himself writing his own testimony, in his own language, expressive of ideas, making up a statement of facts relative to the matter in controversy between the parties to the suit, all of which is verified by his oath. All responsibility, moral and legal, arising from the facts deposed, is thus fully and fairly thrown, where it ought to be, upon the witness himself. The rule here introduced to sustain the objection made by defendant's counsel to this part of the proceeding in the case, certainly cannot with propriety be applied to the facts as they are shown to exist. The witness being capable, and before the person empowered by law to take the testimony, may write his own deposition. Indeed, by so doing, the whole, in form and substance, becomes most properly his own testimony. When called to testify in the case, Noggle was the witness, and not the attorney. He could not be the witness testifying and the attorney writing out the testimony at the same time."

We have said that much depended upon the wisdom, sagacity and conservatism of the judgment of the court in construing statutes; that it was practicable for a court otherwise constituted, by its interpretation or construction, to shape the purpose of the statutes and to render a

body of laws, by erroneous interpretation or construction, to work out a very different purpose from that intended by the law makers. In the case we are considering, there was but little difficulty, as it seems to us, and aside from the fact presented, that the same person may not be at the same time the attorney and the witness, the purpose of the statute was to secure the faithful and unbiased writing down of the statements of the witness, and therefore the statute ought not to apply, as was held by the court, where the attorney was called as a witness.

Attention is called to the case as being a fair illustration of what we have before stated, that the supreme court was called to the duty of a considerate and beneficent interpretation of the statutes passed by the legislature.

Another case at the same term (Gay v. Lloyd, 1 Greene, 78), involved some intricacy in respect of the authentication of public acts, records and judicial proceedings. The opinion was prepared by Wilson, Justice. The action was brought upon the transcript of a judgment from the docket of the justice of the peace of Hamilton county, Ohio, wherein judgment was rendered against defendant now before the supreme court. The questions all arose upon the sufficiency of the authentication of that judgment. The court held that the acts of congress relative to the authentication of public acts, records and judicial proceedings have no reference to inferior tribunals created by municipal law, such as justices of the peace; that the method of authenticating the correctness of the justice's transcript is left for regulation by the states, and that at least the statute of the state in which they are to be introduced in evidence is to be conformed to; and that the statute of Iowa had not been conformed to. The clerk of the court of common pleas had certified that the person making the transcript was a justice of the peace as therein stated, when such certificate should properly have been made by the clerk of the county court under the county

seal. It was further held that parol testimony, showing an admission by the defendant that such a judgment had been rendered against him, and that it had never been paid, was not sufficient to entitle the transcript to be admitted in evidence, for that he did not admit it to be a correct copy of the original record—it was not a fact of judgment, but a verity of the transcript, which was to be determined—and finally that, the record being from an inferior court and not a court of general jurisdiction, no presumption as to its correctness existed, and the judgment was reversed.

At the next January, 1848, term, a case of great peculiarity (Allen v. Dunham, 1 Greene, 89) came before the court on appeal from Des Moines county, which was in the First judicial district under the territorial law. The case was this: By an act of congress organizing the territory there were created three judicial districts, and the three judges were authorized to make the assignments of each judge to his district. Under that assignment Chief Justice Mason was assigned to the First district. The judges of the district court were also the judges of the supreme court; that is to say, that each district judge held a court in his district for the trial of causes to the jury and otherwise. The three judges were authorized together to hold a supreme court, so that the three judges of the district court were the judges of the supreme court. Under the constitution of the state, the judges of the district court were different individuals from the judges of the supreme court, and the two offices were incompatible and could not be held by one person. Early in February, 1847, a law was passed by the legislature and approved by the governor dividing the state into four districts. This law must have operated to repeal the territorial organizing act so far as respects the number of judicial districts in the state. The record in the appeal was certified by Chief Justice Mason as judge of the First judicial district, and his au-

thority to hold such court or authenticate the record therefrom was questioned. A motion was made and sustained in the court below to quash the original writ, because it does not bear test in the name of the district judge, as required by statute. The ruling on this motion was the only error assigned in the case.

Greene, justice, delivering the opinion of the court, said: "It appears that the suit was originally commenced, and summons issued, on the 25th of February, 1847. But, on the fourth day of the same month, a law was approved by the governor, and on the tenth of that month had effect by publication in the newspapers, dividing the state into four judicial districts. This law having taken effect before the suit was commenced, and there having been no election till the following April, the judges under territorial appointment not having been designated to the new districts, it is assumed for the defendant in error that there was no judge of the district court in whose name the writ could bear test, and that as a consequence it could not issue with the requisite legal attestation. To this conclusion we can see no legitimate objection.

"Though true, Judge Mason, in whose name the writ bore test, had an appointment under our territorial organization, and the constitution of Iowa adopted and continued in force all territorial laws, till altered or repealed, and authorized all officers of the territory to exercise the duties of their offices till superseded under the constitution; still, the new law dividing the state into four judicial districts evidently abrogated these portions of the old law which divided the territory into three districts and assigned a judge to each. And thus the territorial judges, even if authorized by the constitution to act in the double capacity of district and supreme judges of the state, are left without authority or jurisdiction over any particular district. If they were authorized by the constitution to officiate as district judges, yet as they were not designated

to particular districts under the new districting law, and there being more districts than judges, it was evidently impracticable and unauthorized to set apart any one judge to any given district, though corresponding in number to the district in which he formerly acted; and hence the districts remained alike destitute of judges till they were elected by the people.

"But may it not be held, with much reason, that the territorial judges could not act in the two-fold capacity of supreme and district judges? Holding over and acting, as they did, as judges of the supreme court, their official powers were necessarily limited to that court under the constitution; by which the judges of the supreme court, as also those of the district courts, are limited in jurisdiction and office to their respective courts. In becoming the judge of one court, the incumbent is rendered ineligible to the office of the other. See sections three and four in the fourth article of the constitution. The organic law of the territory authorized the judges of the supreme court to act as judges of the district courts, but the constitution of the state renders the two offices in the same person incompatible; and therefore the territorial judges could hold over only in the capacity they assumed as judges of the supreme court." The judgment of the court below was affirmed.

The case surely is one of great peculiarity, and must have been then without precedent. No case is cited in support of the reasoning by Judge Greene, but the decision was by the unanimous court, and most unquestionably was correct.

CHAPTER IX.

REVIEW OF OTHER DECISIONS BY THE SUPREME COURT.

In a criminal case decided at the same term (Warren v. The State, 1 Greene, 106), the defendant was convicted of the crime of larceny, and he appealed. The attorney for plaintiff in error was **William E. Leffingwell** of Clinton county, and the attorney for the state was Ebenezer Cook of Scott county. We have before spoken of the latter, but not of the former. It is fairly due to Mr. Leffingwell that we should refer to him further because he was at that time, although having then recently entered the profession, a man of recognized ability and very great brilliancy. He continued to practice law, residing in the same district for many years and until his death. He attained a most enviable reputation as an advocate, and was indeed recognized as a strong lawyer in any case. His powers as an advocate were the occasion for his being invited into the field of practice in criminal cases, not only in the state of Iowa, but in the adjoining states—trying very many cases in Illinois. He was a most successful practitioner. He was also distinguished for his social qualities and great personal popularity. He, like most lawyers in the early history of the state, embarked in the field of politics, wherein his measure of success was not equal to that attained as a member of his profession. As a rostrum speaker he had but very few equals and no superiors. He acquired a large practice also in the law and equity branches of jurisprudence, and his marked ability as well as fairly thorough knowledge of the law gained for him an enviable reputation in those fields. He has left his impress upon the jurisprudence of the state, and we shall

have occasion hereafter to refer to him in cases wherein he has appeared in the supreme court.

The point ruled by the court in this case, it seems at this date, ought not to have been questioned; and yet the judgment of the court below was reversed, Greene, Justice, writing the opinion upon the proposition that "the fact that a portion of the chattels were found upon the premises of the accused eighteen months after they were stolen, accompanied by other suspicious circumstances, is prima facie evidence that the accused was guilty of the larceny."

It seems that among the stolen property was a wild animal, a coon, which it was contended was not the subject of larceny, but its value was embraced in the aggregate of the value of the stolen property. The court held that such an animal was not the subject of larceny; and held also that, since the sum of its value, being deducted from the aggregate of the property stolen, would not reduce the same so as to affect the degree of the crime, that fact was immaterial. The judgment was reversed.

In the case of Harrington v. Sharp (1 Greene, 131), decided at the same term, a rule was laid down which is certainly not the modern rule in Iowa; but without stopping to trace the precise language of the statute as changed, we give a brief statement of the case. The appellant was represented by Platte Smith, of whom we have before spoken as a very strong man—indeed, one of the giants of the profession in that day—and he was opposed by James Crawford, a lawyer of marked ability, residing also in Dubuque.

The opinion was prepared by Greene, Justice. The only question submitted for determination was, Will a judgment operate as a lien on a pre-emption right and on after-acquired lands? The statute at that time provided that the judgment shall be a lien on the "real estate of the person" against whom it was rendered. The court, upon reasoning, held the pre-emption right to be a mere equitable

and contingent interest, and that the judgment could not operate as a lien upon it. It was also further held that the after-acquired lands of the judgment debtor did not become subject to the lien until after a levy. We refer to this case as giving some indication of the course in which the same judicial questions have traveled in connection with our jurisprudence.

In another case (Carter v. Cavenaugh, 1 Greene, 171), the question as to the mode of impeaching the general character and standing of a witness was presented. We call attention to this case also for the reason that it shows the variation made by statute upon original judicial views, at least when taken in connection with our modern statute. The case was a very important one, but it turned upon the question stated, and the holding of the court below was affirmed. Timothy Davis of Dubuque, of whom we have spoken before as to his success as a lawyer and as a statesman, was for the plaintiff in error, and Platte Smith for the defendant. The opinion was prepared by Greene, Justice, and holds that "the general character and standing of the witness, as a good or bad man, without reference to his character for truth, is not admissible for the purpose of impeaching him. In an effort to impeach a witness, the principal inquiry is as to his general reputation for veracity, where he is best known." Aside from the changes made by statute since that period, the same rule, as it occurs to us, still exists.

Another case (Packard v. United States, 1 Greene, 226), involving a question which has later been very much mooted, and upon which courts are not fully in harmony, was decided at the same term. The opinion was delivered by Hastings, chief justice, and, upon the strength of the cases cited, it was held by the court that affidavits of jurors may be received to show that they entirely misunderstood the instructions of the court; and that fact being clearly established, the verdict should be set aside and a new trial

granted. The much-mooted question since the decision of this case is as to the competency of the affidavit of petit jurors, as evidence upon which a verdict may be disturbed.

We will not stop now and here to discuss the correctness of the rule as announced by the court in this case. It may not, however, be out of place to suggest that it will be found, probably, more or less in conflict with the rule established later by the court. The understanding or interpretation of the court's instructions to the jury is a matter more or less involved in the make-up of the verdict, and if the verdict can be set aside upon an affidavit by one or more of the jurors as to their "understanding or interpretation of the instructions given them by the court, it would seem to be placing it within the power of jurors to overturn any verdict, if a misinterpretation by them, sworn to after the rendition of the verdict and under the pressing importunities of defeated counsel, should be made a basis for the court's action thereon. The courts, in groups, have established rules more or less different from each other, and among them is a rule which is designated in the text books as the "Iowa Rule," and to which we will later refer.

In another case (Fear v. Dunlap, 1 Greene, 331), heard at the May term, 1848, a question arose as to the liability of an indorser of a negotiable note who was neither payee nor an indorsee of such note. The court held that the law presumed that he was a strictly commercial indorser. Later it was held by the court that such an indorser was liable as a guarantor. In other states a different rule was held, and, to settle the matter beyond controversy for Iowa, a statute was enacted declaring, in substance, that the writing by a party of his name upon the back of a negotiable note, whereon he was neither payee nor endorsee, would bind him to the obligations of a guarantor. That statute is now repealed by the Negotiable Instruments Law.

Another case (Norris v. Slaughter, 1 Greene, 338) was decided at the same term, to which much consideration was given. C. Walker was the attorney for the plaintiff in error, and J. C. Hall for the defendant in error. The opinion was prepared by Hastings, Chief Justice. The question involved was as to the effect of a repeal of a statute of limitations upon a cause of action, where the statute had not fully run. The following rules were laid down by the court and embody most unquestionably the settled law of today, to-wit:

1. That where a statute of limitations shall have been unconditionally repealed, without any saving clause as to former rights accruing and incomplete under the repealed act, the rights of parties shall be adjudicated in the same manner as if the repealed act had never existed.

2. If a part of the time limited has run under a prior act, without a saving clause, the computation of time must be from the passage of the last act.

3. That a remedial statute shall be considered a rule of future action, and apply only to cases in future, unless by express provision the statute is to operate retroactively; and it cannot so act to the prejudice of vested rights.

4. That when a statute has run the prescribed time, and is afterwards repealed, the creditor is barred, and no subsequent act of the legislature will cause the case to survive, the presumption of payment being complete and fixed.

5. That the legislature has the power to enlarge the time for the statute to run, to repeal the statute which has run a part of the time prescribed, and to give past creditors the same length of time to prosecute their claims as future creditors, and to reserve to debtors the time which the repealed act has run.

The application of these rules to the case at bar resulted in the affirmance of the judgment of the court below, which was for the plaintiff.

CHAPTER X.

ANOTHER HALF-BREED TRACT CASE AND OTHERS.

In a case decided by the supreme court at its May term, 1849 (Reed v. Wright, 2 Greene, 15), the question as to the title of the Half-breed Sac and Fox Indian land was involved. It was the same land and the same title as involved in the case of Webster v. Reid, reported in Morris, 615, and discussed hereinbefore. (See page 27, ante.) While the two cases involved the same title (the tracts in controversy in each case being part of the whole body of the land), yet they were very differently tried below, and the questions presented to the supreme court were entirely different. The same evidence which was offered in the first case and received and considered by the court was objected to in the trial in this case below, and the objections sustained, whereby the evidence was excluded.

Having set out the evidence quite fully in our comments upon the first case decided, we deem it unnecessary to again set forth the same here. In the first case, there was no question of the constitutionality of the acts passed by the Iowa legislature. The act of the Iowa legislature involved was passed in 1839, and provided that all persons claiming any interest in said land under the treaty and acts of congress, who should not file their claims before certain three commissioners whose appointment was provided for by the act, and as required by that statute, should be forever barred from setting up any claim in said lands or in the proceeds of the sales thereof. The act provided for the appointment of three commissioners, who should take the testimony concerning the validity of the claims to said

lands presented and filed before them. The act also provided that the commissioners should receive six dollars per day for their services, and authorized, after the completion of their services and the rendition of bills for services and expenses, that if the same were not paid the commissioners might enforce the same by bringing an action in the district court of Lee county for their several accounts against "the owners of the said Half-breed land," and give eight weeks' notice of such suit by publishing the same in the Iowa Territorial Gazette. The act also authorized the district court, upon the trial of such suits, if the accounts were deemed correct, to enter judgment for said several amounts against said owners, which judgments should draw 12 per cent per annum interest. The commissioners acted and reported their action, together with an account for services and expenses, and a several action was brought by each for the amount claimed by him. Judgments were rendered and, under executions issued upon said several judgments, the lands were sold and purchased by the plaintiff, Hugh T. Reid.

On the trial in the court below, the plaintiff offered in evidence the several treaties and acts of the Wisconsin and Iowa legislatures, and also the judgments, executions and returns, showing sales thereunder and the deeds made pursuant thereto. To the introduction, as evidence to the jury, of said judgments, executions, returns thereon and sheriff deeds, the defendant objected, and the court sustained the objection and refused to permit said evidence to go to the jury; whereupon the plaintiff excepted and assigned the decision of the court excluding said evidence, as error. The claim of the defendant, in the objection interposed, was that the act of the Iowa legislature authorizing the bringing of the suits upon notice to "the owners of the Half-breed tracts" and the service thereof by publication in the paper, gave the court no jurisdiction to render the judgments. The claim was two-fold, towit: First, that

the notice was insufficiently served, and, second, that the submission of the matter to commissioners, when under the Ordinance of 1787 the owners of the Half-breed tract had the right of trial by jury, rendered the act (depriving the owners of personal service and also of the right of trial by jury) and the notice given under said act, in effect, unconstitutional, and that the court, therefore, had no right to render any judgment in such cases.

The court, in a very able, exhaustive and convincing opinion by Kinney, Justice, sustained these positions of the counsel for the defendant. Whereupon the counsel for the plaintiff contended that the constitutional question could not then be raised; that the court rendering the judgments necessarily decided in favor of the constitutionality of the act and of its own jurisdiction, and that that decision became the law of the case and, if it was error, it could only have been inquired into on writ of error. To this the court declined to give its assent, but maintained that the act of the Iowa legislature, authorizing the proceeding without personal service and in express denial of the right of trial by jury, was itself wholly invalid, because contrary to the provisions of the constitution of the United States and of the Ordinance of 1787, and that the act was itself wholly nugatory and void; that, by reason of the act being void, the court could not acquire jurisdiction of either the persons or the subject matter; and that there was no matter or question before the court for its decision respecting jurisdiction, since there was no legally constituted court to adjudicate those questions. The opinion further proceeds to declare that, whenever a judicial record is presented to a court, the court's first duty is to ascertain whether the court whose record is presented had jurisdiction of the subject-matter and the person, and that if it were determined, as it must be in this case, that the court had no jurisdiction, then its record was a nullity; that while it is true that where a court having jurisdiction of the subject-mat-

ter acts erroneously thereon, such error can only be corrected by appeal; yet as to the judgment of a court without jurisdiction, it is void, and can be attacked collaterally or otherwise, and that no appeal is necessary in such case. The difference between a void and a valid judgment in this particular was fully argued, and the position of the court sustained by numerous authorities. The judgment of the court below, therefore, which in effect denied the plaintiff's title, was affirmed. This result was different from that reached in the case before referred to (Webster v. Reid, Morris, 615).

At the June term of the supreme court, 1850, a case of many peculiarities was presented to the court. It was the case of Wright v. Boon (2 Greene, 458). Hon. Wm. McKay was judge of the district court for the Fifth judicial district; but before he became such judge he was the attorney for the plaintiff in the action. When the case was called for trial, this agreement was made and entered of record, "Now come McKay and Jewett, attorneys for plaintiff, and Casady and Perry, attorneys for the defendant, and, by agreement of parties heretofore made, W. W. Williamson, Esq., presided in the case instead of the Hon. Wm. McKay, who was one of the counsel before he was elected judge." The record further showed that Judge McKay acted as counsel in the trial of the cause below. The court in its opinion uses this language: "Parties cannot agree, even with the consent of the judge, to depose the court and substitute another to act as judge in the trial of causes. The bench cannot in this way be vacated nor the powers of the court thus delegated to another. Williamson possessed no more authority upon the bench than before he occupied the seat. Nor was it within the power of the court to confer upon him the stipulated judicial authority. The judge alone was endowed by law with the duties and responsibilities which pertain and belong to the court; and if these are assumed by another, or

attempted to be conferred by the court or parties, all proceedings emanating from such assumed or enforced authority will be absolute nullities, and should be declared void, whenever attempted to be enforced." The judgment of the court below was reversed and a trial de novo awarded.

In the case of Abel v. Kennedy (3 Greene, 47), decided at the May, 1851, term, the question as to the admissibility of the affidavit of petit jurors, respecting the misconduct of the jury in arriving at their verdict, was raised. In this case the affidavits related to the finding and reading by the jury of a rejected deposition after their retirement. The ruling of the court was very broad, and to the effect that, where the application for a new trial because of the misconduct of the jury is made, and is based alone upon the affidavits of the jurors showing their misconduct, the motion should be overruled.

In another case (Johnson v. Williams, 3 Greene, 97), decided later in the same term, a somewhat novel question as to the liability of the husband for necessaries furnished the wife was presented. It arose in an action by an attorney against the husband to recover compensation for his legal services in a suit brought by the attorney for the wife against the husband for divorce and alimony. On a trial before the jury, the plaintiff asked the court to give the following instructions: "That a husband is by law liable on an implied promise to pay lawyers and officers of the court for their reasonable charges and fees for services rendered to the wife in prosecuting her right to divorce and alimony, upon the ground of necessaries." The court refused to give that instruction, but did instruct the jury: "That the defendant was not liable for professional services rendered to the wife of the defendant in procuring divorce and alimony, if such divorce and alimony are obtained, unless he was employed by defendant, either in person or agent, or unless the defendant promised to pay,

or unless he was ordered to pay for such services by the court." This instruction was approved by the court, as also the ruling of the court below in refusing to give the instruction as asked by plaintiff.

A rather interesting opinion, which is really very exhaustive and thorough, by Kinney, Justice, was delivered in the case of Tiffany v. Glover (3 Greene, 387), decided at the May term, 1852, of the supreme court. It was an action of right, so called at that time, and described under our Code as an action for the recovery of real property. The parties, plaintiff and defendant, each claimed immediately from a common grantor—the plaintiff by attachment, judgment, execution, levy, sale and sheriff's deed, while the defendant claimed under a conveyance direct to him from the common grantor. The question arose (and upon which the case turned) upon the sufficiency of the return of the writ of attachment, which was as follows: "January 7th, 1849, levied the within writ by attaching the southeast quarter of section twenty-nine, township seventy-one, range six. Report of appraisers: We, the undersigned, citizens of Henry county, possessing the qualifications of jurors, having been summoned by W. S. Viney, sheriff of said county, to appraise the following property levied on by him under and by virtue of said attachment, did, on the second day of January, 1849, after being duly sworn by said sheriff, proceed to appraise the same at five hundred dollars." The alleged defect in this levy was that it did not, after the description of the property in the levy, add the words "as the property of the defendant."

The decision of the court is best stated in its own language, which is as follows: "The conclusions which we arrive at in this cause are, first, that, the attachment proceedings being in derogation of the common law, by virtue of a special statute summary and extraordinary, the court was therefore quo ad hoc a court of limited jurisdiction. Second, that jurisdiction will not be presumed, but that

the facts which gave jurisdiction should appear upon the face of the proceedings. Third, that the attachment proceedings in the case of Glover v. Cheney may be inquired into collaterally, and that if it appear from the record that the court did not acquire jurisdiction over the land of Cheney by a proper levy, such levy will be declared void. Fourth, that, as the sheriff did not comply with the requirements of the statute in making his levy, as appears from his return, Glover acquired no lien by virtue thereof upon the land of Cheney, and hence, Tiffany's deed being executed and recorded before final judgment, must have seniority. Lastly, that the acknowledgment of the deed from Cheney to Tiffany is good in law, and the record of said deed imported notice to Glover, who purchased the same land at the sheriff's sale. The court erred in deciding that Tiffany had no cause of action." Greene, Justice, filed an elaborate and very exhaustive opinion dissenting from the judgment of the court and the doctrines of the opinion as given above.

In the case of Stemple v. Herminghouser (3 Greene, 408), decided later at the same term, the question of the right of foreigners to inherit from a parent resident in this country, holding lands here by good and sufficient title, was involved. There were several children, a part of whom were living in this country and another part of them were residing in Prussia, the native country of the ancestor. This was an action for partition, brought by the children resident in this country, and while the fact appeared that there were other children, aliens and residents still in Prussia, the latter were not made parties to the suit. The court below held that they were necessary parties, and from that ruling of the court this appeal was taken. This opinion was also prepared by Kinney, Justice.

It is not unreasonable to presume that the extended consideration given to this case, and the exhaustive opinions filed by both the majority and minority judges, were

attributable to the counsel employed in the case. Reeves & Miller and J. C. Hall were attorneys for appellant. The firm of Reeves & Miller was composed of L. R. Reeves and Samuel F. Miller. The attorneys for the appellee were D. Rorer and LeRoy Palmer. We have hereinbefore given something of the character and ability as attorneys of both J. C. Hall and D. Rorer, but this is the first occasion which has presented itself to speak of Reeves, Miller and Palmer. The senior member of the firm, **L. R. Reeves,** was a lawyer of marked ability and a successful business man. He resided at Keokuk, and occupied an exalted position at the bar, and was influential in both business and social circles. He died not many years after the trial of this case. While he lived long enough and his practice was sufficiently extended to enable him to attain the positions we have mentioned, yet his influence was not sufficiently extended to give to him any large measure of credit, which he would most undoubtedly have attained had he continued longer at the bar.

Samuel F. Miller, his partner, had also at this time attained prominence at the bar, and his standing among his brothers of the profession was nearly equal to that of his senior partner. It is hardly fair to Mr. Miller to undertake to outline his character at the bar, in view of his subsequent career. He continued at the practice after the death of his partner, and was associated with John W. Rankin in a partnership at the bar, and that firm had a standing at the very head of the bar of the state. As is well known, Samuel F. Miller afterwards, in 1862, was appointed by President Lincoln one of the judges of the supreme court of the United States. The fact that he was appointed to that exalted position by that most extraordinary and great man, Abraham Lincoln, constitutes itself a sufficient eulogy of Judge Miller. If more were needed or proper, it can be best stated by referring to the universal recognition of his greatness and purity as a judge and his extended

service on the bench, to which he was a tower of strength all the time of his incumbency.

LeRoy Palmer, of Henry county, who with Judge Rorer appeared for the opposite party, was a distinguished citizen as well as an able and successful lawyer. He was a man of learning and of influence, not only in his profession, but in the social, business and political affairs of his county and state. He had some peculiarities growing out of his nervous temperament and constitution, but they intensified his zeal and often gave much of force to the arguments and conduct of the causes in which he appeared. He was a strong lawyer, always full of business, and, with his associate, presented an almost equal force of professional talent and ability to that engaged on the other side of this case. It has been my fortune to be in position to note the influence which marked ability on the part of counsel has in developing the nice points and difficult questions of law in a case. Indeed, almost any case is made important and difficult by this marked ability of counsel, which enables them to sub-soil, so to speak, and to discover and to bring to the surface questions which less able counsel would never present. It was this thought which led to the opening suggestion respecting counsel in this case.

The following quotations from the opinion of Mr. Justice Kinney in this case under consideration show the grounds upon which the decision of the court was based:

"It is a general rule that even a natural born subject cannot take by representation from an alien, because the alien has no inheritable blood through which a title can be deduced. If, therefore, a person dies intestate without issue, and leaves a brother who had been naturalized, and a nephew who had been naturalized, but whose father died an alien, the brother succeeds to the full estate, for the nephew is not permitted by the common law to trace his descent through his alien father. It has also been held on good authority that, though an alien be afterwards nat-

uralized, he cannot secure the estate, and this for the reason that the fee will not rest in abeyance. The capacity to take must exist at the time the descent happened. Naturalization may confirm a defective title, but will not confer an estate.

"It may be assumed as the settled doctrine of the common law that an alien can never take by the act of the law, as by descent, for he has no inheritable blood. It is clear, then, that at common law the children who were alien foreigners at the time of the father's death were not, nor could they be, heirs to the estate in Iowa, and therefore had no interest in the proceedings for partition, and should not have been made parties, or notified by publication."

This common law rule has been changed by the statutes since the announcement of this opinion, so that the rule now in Iowa is different from that announced by Kinney, Justice. Greene, Justice, filed a dissenting opinion wherein he stated with fullness and force his different conclusion.

In another case (Armstrong v. Scott, 3 Greene, 433), determined at the same term, an interesting question in connection with equity practice was decided. The case arose before the Code of 1851 took effect, and the ruling is under the chancery practice. The complainant filed his bill in equity against several parties, and stated therein that as to two of the parties, naming them, he expressly waived an answer under oath. The parties named, however, notwithstanding such waiver, filed their answers, each under the oath of each, and the question arose whether they were entitled to read their answers as evidence for themselves in the case, under the prevailing rule in chancery. The supreme court held that, notwithstanding the waiver, they had such right; that the waiver made by the complainant did not affect their rights. Another question arose in the same case, wherein a deed of trust of real

estate authorized a sale by the trustee upon giving thirty days' notice in some newspaper, prior to sale. The court held that such publication should be continued weekly until the thirty days had expired between the first and the last publication.

At the June term, 1853, of the supreme court there was a case determined (Dubuque County v. Dubuque & Pacific R. R. Co., 4 Greene, 1) respecting which, and the rules adjudicated thereby, there has arisen more controversy, and the questions involved therein have been mooted in more subsequent cases, perhaps, than those raised by any other case. It involved the constitutional and statutory authority of a county to aid in building a railroad within its limits. The majority opinion was prepared by Greene, Justice, from which Kinney, Justice, dissented in a very elaborate and extended opinion. As to the constitutionality of the law, claimed to authorize such a vote, the argument of the court was very brief and was, in effect, that the state was sovereign, except where its power was limited expressly or by necessary implication, and no clause of the constitution had been cited limiting that sovereign power, save that "The state cannot directly or indirectly become a stockholder in any corporation;" from which it was argued that a county could not become such stockholder without making the state a stockholder; and the further clause which limited the power of the state to contract debts not exceeding one hundred thousand dollars; from which it was argued that, the county of Dubuque being a part of the state, its indebtedness was embraced within the constitutional limitation. This construction was rejected by the court as being "latitudinarian in the extreme."

Upon the question of the statutory authority, the court quoted the Code, Sec. 114, as follows: "The county judge may submit to the people of his county at any regular election, or at a special one called for that purpose, the ques-

tion whether money may be borrowed to aid in the erection of public buildings; whether the county will construct or aid to construct any road or bridge which may call for an extraordinary expenditure." The court held that the term "any road" included necessarily a railroad; that such was the ordinary interpretation, and that there was nothing in the language of the statute which would authorize the court to declare that the indefinite term did not include all roads, and hence a railroad. The court further held that the proceedings, leading up to the making of the order for the submission of the question to the voters, were regular and in strict compliance with this statute.

The only other case decided by the same court, and reported in the series of reports by Greene, to which we will call attention is the case of Steamboat Globe v. Kurtz (4 Greene, 433), involving rights with respect to navigable streams. The opinion was prepared by Hall, Justice, and decides that the Des Moines river is a navigable stream and a public highway; consequently a steamboat may lawfully navigate the same; and, although a ferry may be legally established upon that river, it must be so conducted as to avoid obstructing its navigation. The right to navigate the river is paramount to a ferry franchise, and therefore a steamboat is not required to wait for a ferryman to lower his cable, so as to run any risk or suffer any damage from the delay. A ferry cable extending across a navigable stream should be so managed as not to be an obstruction to navigation, and so as to cause neither inconvenience nor damage to boats. The counsel appearing for the appellant, was H. B. Hendershot, of Ottumwa, of whom we have heretofore briefly spoken.

CHAPTER XI.

NOTICES RESPECTING SOME ATTORNEYS.

In connection with reference to cases upon which we have commented hitherto, we have also given briefly something relating to the attorneys engaged therein. Of course, since we have referred to but a very small percentage of the cases, we have failed to comment upon all of the attorneys connected with cases found in the reports from which we have made selections. Having now completed our reference to cases reported in the four volumes of Greene's Reports as well as the one volume of Morris' Reports, it is proper to refer to attorneys connected with cases found in those volumes of reports, and who have not been noticed heretofore. It is true that the attorneys who have been noticed in connection with the cases referred to and commented upon were among those having the largest practice, apparently, and whose names appear in connection with multiplied other cases than those cited. It is proposed to limit the attorneys to be named in this connection to those whose names have been found as appearing in cases reported in the five volumes of reports from which the cases commented upon have been taken.

Among those deserving mention, much fuller than we can give in this connection, is **John W. Rankin,** of Keokuk. He received a liberal education before coming to Iowa, and had a limited experience in practice. He came to Iowa in 1848, and, being an unusually bright and versatile man, he made an early acquaintance with business men, and soon found himself in a full practice. He continued practicing for a time by himself, but shortly afterwards associated himself with Samuel F. Miller, of whom we have spoken, and the firm was Rankin & Miller; the order

of the names in the firm indicating something of the standing and recognition which Mr. Rankin had attained. The business of this firm was quite extended, but the firm was dissolved in 1857, which dissolution was caused by the appointment of Mr. Rankin as judge of the district court to fill the vacancy caused by the resignation of Judge Ralph P. Lowe. It is worthy of note that Judge Lowe resigned his position to accept the nomination for governor, to which he was elected, and at the close of his term as such, he was elected to the bench of the supreme court. Judge Rankin's administrations of the law upon the bench was entirely acceptable, and worthy of the reputation he had attained at the bar.

Another lawyer, residing also at Keokuk, and who came there about two years later than Judge Rankin, attained very great prominence in the history of the state, though not at the bar. Reference is made to **Thos. W. Clagett,** who had practiced law and been a member of the legislature of his native state, Maryland, and who came to Keokuk in 1850 and practiced law for a time with marked success. He, too, was afterwards promoted to the bench of the district court, whereon he served with marked ability, though, by reason of natural characteristics, his service on the bench was not as universally acceptable as that of Judge Rankin. Judge Clagett was a man of very marked and recognized ability; but he was better adapted, perhaps, to the political than the judicial arena. He became the proprietor and editor of a daily paper at Keokuk, called the Keokuk Constitution, through which he exerted a marked influence during its existence. He was also a recognized authority in the matter of fine stock and exerted the most healthful influence and aid in the organization of the local agricultural society, as well as that of the state.

Another lawyer of marked ability, who came to Iowa from a slave state, Alabama, although born in Massachu-

setts, was **Lincoln Clark,** who came to Iowa in 1848 and located in Dubuque. He gave his attention to the law at the first, and very soon had recognition as a lawyer of marked ability and of extended experience. Probably no man in his portion of the state stood better as a lawyer and man than did Mr. Clark. The reputation which he readily gained as a lawyer became the occasion of drawing him into politics, wherein he was successful, and had honorable recognition. In 1850 he was nominated for congress on the democratic ticket, in what was then known as the Second district of Iowa, it being the north half of the state. He was elected by only a small majority over his competitor, John P. Cook, a very able and most successful lawyer, who maintained a reputation second to none in the state for many years, and who was a citizen of Scott county. Mr. Clark's majority in a vote aggregating about sixteen thousand was about one hundred and fifty. The same two distinguished lawyers were competing candidates at the succeeding election, two years later, and in this contest Mr. Cook won the election. Afterwards, in 1857, Mr. Clark was elected to the legislature of the state of Iowa and rendered most valuable services therein. The influence of both Mr. Clark and Mr. Cook upon the jurisprudence of the state was potent and healthful.

Ben M. Samuels, a lawyer possessed of a liberal education and a very commanding personality, came to Dubuque some little time after Mr. Clark, and became early prominent as a lawyer. Soon after his arrival he became a partner in the practice of the law with Senator Allison and Mr. Crane, the firm being Samuels, Allison & Crane. Mr. Samuels was an able and successful lawyer, and had recognition surpassed by few as an advocate. The practice of the firm was quite extended, and at that time Dubuque was the leading city in the state, and had a very strong bar. In 1857 Mr. Samuels was the unsuccessful

competitor of Judge Lowe for the office of governor. At that time **L. A. Thomas** was a member of the Dubuque bar and as a lawyer and man ranked among the first of that body. His practice was, perhaps, more extended than that of Mr. Samuels or Mr. Clark.

Timothy Davis was also of the Dubuque bar, having become a member of the same about the time of Mr. Clark. He was experienced in the practice of the law in other states before coming to Iowa, and at once took rank as an experienced lawyer, and his early practice afforded him that measure of success which brought a very competent practice to him. He too mingled somewhat in politics, having been nominated by the Whigs in 1847 for member of congress for the Second district, the north half of the state, but he was defeated by Shepherd Leffler, the democratic candidate. His defeat, however, was only temporary, for in 1856 he was elected to congress for that district by the republicans. The Dubuque bar was especially fortunate in the dignity and manliness as well as in the legal learning and ability of its members.

Stephen Hempstead was another lawyer of Dubuque and a compeer of those we have mentioned, ranking with them in point of learning, ability and manly dignity. His practice was a recognition of these characteristics. He too embarked in politics and was governor of the state, wherein he made a most enviable reputation. His administration was able, intelligent and successful.

Frederick E. Bissell was another Dubuque lawyer of marked ability and of decided success. He came to Dubuque in 1845, and after teaching school there, as he had done in New York from whence he came, he studied law and, being pre-eminently a practical man, soon found himself with a law practice. He was at different times in partnership with Lincoln Clark, Timothy Davis and later with Judge Shiras, of the United States circuit court. He was very prominent in educational affairs in Dubuque, and he,

together with two or three other lawyers, to be hereafter mentioned, and others, so managed and conducted the public schools of Dubuque as to give to them a recognized pre-eminence in comparison with other schools of other cities in the state. He was, in 1866, appointed by Governor Stone, attorney-general of the state in place of Isaac L. Allen, resigned on account of ill health. He was concededly the best attorney-general of the state down to the period of his holding the office. He was a thorough lawyer and a pre-eminently practical and successful man.

Among the prominent lawyers of Dubuque at that time was **James Burt,** who, after a successful career at the bar, went upon the bench of the district court and accomplished equal success there.

Among the lawyers of Burlington, many of whom we have heretofore mentioned, was **Charles H. Phelps,** a well cultured, painstaking and successful lawyer. Indeed, at this period of the history of the territory and state, the bar of Burlington, the bar of Dubuque and the bar of Keokuk were justly distinguished for their learning and ability, not only in the territory and state of Iowa, but also in Illinois and other bordering states and territories. Mr. Phelps was justly prominent among them.

S. W. Summers, of Ottumwa, was a leading lawyer in his city and county, and ranked well with his associates at that time, among whom was that tower of strength, while at the bar and afterwards on the bench, H. B. Hendershot.

Among the lawyers of the state having prominence not only from their practice, but largely from their peculiar characteristics, may be mentioned **Gilman Folsom,** of Iowa City, who had quite a practice in the early history of Johnson county, and who was a man of strong reasoning powers, accompanied with a fair measure of legal learning. He attained much of prominence, not only as a lawyer, but as a citizen and as a politician.

CHARLES H. PHELPS.

J. A. L. Crookham, of Mahaska county, was a strong lawyer. He was possessed of quite more than the average measure of practical common sense, which, together with his knowledge of the law, enabled him to secure the best practice at one time in his county. We are not given to anecdote, but cannot refrain from mentioning a pass, while engaged in the trial of a case, between Judge Crookham and Lieut. Governor Enoch W. Eastman, who was then practicing law in the same county. They were engaged in a case involving the identity of certain young cattle and hogs which had strayed from their owner, and were in possession of another, who claimed them. The stock was replevined from the claimant at his home, and taken back to the farm of the plaintiff. Among the items of testimony on the part of the plaintiff was that of witnesses as to the manner in which the animals conducted themselves when taken back. Judge Crookham, basing his argument upon this peculiar conduct of the hogs, as testified to, stated to the jury that he was familiar with stock under such circumstances, and knew all about their nature. To this Mr. Eastman replied by saying, "Gentlemen of the jury, Judge Crookham tells you he knows all about the nature and the actions of hogs under such circumstances," and then, hesitating a little, he said, "Well, gentlemen, he orter, for he is the biggest bore in Mahaska county"—but Judge Crookham's testimony and claimed knowledge won him the victory.

Enoch W. Eastman was an early settler in Iowa, although he was born in New Hampshire, where he was educated and studied law and continued the practice of the law for several years. His birth and residence there seemed to have fastened upon him the peculiarities of the extreme eastern pronunciation and provincialisms so firmly that they remained with him his entire life, and always attracted the attention of his hearers. At first he located at Burlington, where he remained some two or

three years, and then, in 1847, removed to Oskaloosa, where the incident occurred to which we have just referred. Mr. Eastman was a very close student of the law, and was fond of nice propositions, if not of technicalities. He mingled considerably from the first in politics, while he was at Burlington and Oskaloosa. In 1857 he removed to Eldora, in Hardin county, where he soon acquired a large and lucrative practice, and he may be well said to have left his mark upon the jurisprudence of Iowa.

It was my fortune, in 1857, early in my judicial experiences in Iowa, to be engaged in a county-seat case in Marshall county, along with M. M. Crocker and E. W. Eastman. At one term of court held by Judge John Porter at Marietta, the old county-seat, our associate, Colonel Crocker, was not in attendance. The opposite side was represented by W. Penn Clark, H. C. Henderson and W. P. Hepburn, who were giving us very much trouble in the successful management of our case. While we were thus cast down and perplexed, and seeking an avenue of escape from the very close quarters into which we had been driven, Mr. Eastman and myself were in the parlor of the hotel, kept by Mr. Crowe, when an old farmer-like looking man came into the room and, walking up to Mr. Eastman, put his hand upon Mr. Eastman's shoulder, causing him to look up. He said, "Is your name Enoch Eastman?" and on receiving a nod of assent, he proceeded, "and are you the Enoch we read about in the Bible, where it says Enoch walked with God and was not what God took him to be?" The occurrence would have been laughable under other circumstances, but our difficulties were too serious to discover laughable matter anywhere. In 1863 Mr. Eastman was elected lieutenant governor on the ticket with W. M. Stone, governor, and discharged very faithfully the duties of his office. Some years after that he was elected to the state senate and served his full term there with acceptability.

C. BEN DARWIN.

There were living at that time also in Oskaloosa several distinguished lawyers, among them **Wm. H. Seevers,** whom we will mention hereafter in connection with his elevation to the supreme bench. Another was **Wm. Loughridge,** who came to Iowa several years later than Eastman, and located first at Oskaloosa and commenced the practice of the law there, having theretofore practiced some years in Mansfield, Ohio. He was within three or four years elected to the state senate, serving a full term, and thereafter was elected to the district bench of the Sixth judicial district, and served his term nearly in full, when he was elected to congress in 1866, and was twice re-elected. Judge Loughridge was an able lawyer and judge, and his service in congress was not only valuable to his constituents but very acceptable to them. His was really a successful and valuable life to the jurisprudence and the political history of this state. **Micajah Williams** was engaged in the practice of the law there for a time, and was afterwards elected clerk of the district court. Mr. Williams was a prominent and leading citizen of his county and state, and exerted a potent influence for good in every sphere of his action. Other lawyers at Oskaloosa may properly be noticed later.

Among the lawyers of the early history of the state who exerted a very large influence upon its jurisprudence, **C. Ben. Darwin,** whose residence was at Burlington, deserves early mention. His early education was liberal, and he was a very industrious and successful man, having a fondness for original investigation and for striking out into lines well up to the front. He exerted more influence, probably, than any one man of his age and experience upon the practice in the state of Iowa. He was a leader, and a strong man in the preparation of the Iowa Code, and attained a reputation most enviable in connection with it, as well as being a successful lawyer.

Henry O'Conner was one of the early lawyers, settling

at Muscatine, where so many of our prominent lawyers and statesmen were found collected. Mr. O'Conner was born in Dublin, but came to this country shortly after he attained his majority. He was one of the brightest men in the state, and soon made his mark in the profession. True to his native instincts, he early entered the political arena, wherein he was profitable to his party and successful for himself. He was elected district attorney for the Seventh judicial district in 1857, and discharged its duties with efficiency and success. He was one of the earliest men in the state to volunteer for service in the War of the Rebellion. He enlisted in the First Iowa regiment, which was the one accepted for the ninety-days' service, and he fought bravely in the numerous engagements wherein that regiment took part. Later he was made major of the Thirty-sixth regiment, and served gallantly till discharged. He was elected attorney-general of the state in 1867, and was re-elected at the close of his first term, and discharged the duties of the office with efficiency and satisfaction. While he was attorney-general, there was presented to him (and so far as known, it was the first case in this country) the question, whether a woman was eligible to the office of county superintendent of schools. His gallantry and judgment concurred in holding her eligible, and that decision has been held the settled rule of action in this state and other states ever since. In 1872 he was appointed solicitor of the department of state at Washington, wherein he rendered such satisfactory service, that he retained the position during the terms of four secretaries of state—Fish, Evarts, Frelinghuysen and Blaine.

CHAPTER XII.

NOTICES OF ATTORNEYS, CONTINUED.

Phineas M. Casady, of Des Moines, came to the state in 1846 and settled at Des Moines. He was a lawyer, and so long as he continued in the practice he was never without his full share of the legal business. He was possessed of an unusual practical business talent, and such men at that time were scarcely left to give their attention to their own business. He was elected school fund commissioner in 1847, and the next year was elected to the state senate, his district embracing Polk, Dallas, Jasper, Marion and all of the unorganized counties in the west, substantially one-half of the state. He was very active in the interests of the new community, and accomplished more, perhaps, for the practical interest and development of the locality than any other man. Although these offices were thrust upon him and he served in them so well and effectively, yet he had no fondness for public place, and greatly preferred to give his attention to his own legal business and personal interests and the interests of the people in his locality. He was, however, persuaded to accept the position as judge of the Fifth judicial district, and was elected thereto in 1854. His administration of that office was entirely acceptable. Later, in 1872, he accepted the position of regent of the State University. In every position in life, both public and private, Judge Casady has been recognized as not only an able and competent man, but as being thoroughly, unquestionably and abidingly honest. He has passed his eighty-eighth birthday, and there is not in the state a man who is more honored and respected for his correct and useful life than is Judge P. M. Casady of Des Moines. **R. L. Tidrick** was a law partner of Judge

Casady for a time and he was associated with him in many of his public duties, but he did not continue long in the practice. **Hoyt Sherman** came to Des Moines about the time that Judge Casady and Mr. Tidrick came, and while he was admitted to the bar and authorized to practice, he did not devote any considerable time to the practice. Both these men in their character, standing and usefulness were fit associates and compeers with Judge Casady. Des Moines and Iowa has many monuments in its history to their usefulness.

Among the prominent lawyers locating at Muscatine, **David C. Cloud** surely deserves mention. He came to Muscatine in 1839, and worked at his trade as a carpenter for several years, but devoted his time, not necessarily employed in his trade, to the study of the law; and after about six years he was admitted to practice. He was a man of great industry and perseverance, and made his mark in his profession. He was elected prosecuting attorney for the district in 1851, and two years thereafter was elected attorney-general of the state. His administration of both these offices was characterized by faithfulness and thoroughness as well as success. He was also a member of the general assembly for one term. In addition to his practice, which was fair amid the most vigorous competition, and notwithstanding the pressure of his professional duties, he devoted some time to literary work.

J. E. Jewett was an early settler in Des Moines and, being industrious and thrifty as well as a good mechanic, he associated with his early law business the manufacture of furniture. As his law business increased so as to occupy more of his attention, he employed other competent men in connection with his furniture manufacturing business. The records show that Mr. Jewett had his full share of the practice at the bar in his judicial district, and his success would average with his associates. He had several partners in succession, and among them A. Y. Hull, Byron

Rice and a Mr. McCormick. In 1857, directly after C. C. Cole came to Des Moines, Mr. Jewett formed a partnership with him under the name of Cole & Jewett. This partnership lasted till 1861, and the records of the supreme court show, as do also those of the district court, that a fair and full proportion of the business at that time was transacted by this firm. Mr. Jewett's mind acted with great promptness and rapidity, and his powers of apprehension were quite equal to those of his fellow members of the bar. His study of the law was never either very extended or very profound, but he was fully up to the front for the transaction of the current business of his time. Later he moved to Iowa City, where he continued the practice of the law.

In connection with this chronology, and as fairly associate with those before mentioned and some to be mentioned immediately hereafter, it would not be allowable to omit the name of **Judge C. J. McFarland.** He began the practice in Lee county, but afterwards moved to Boone county, and was not long thereafter elected judge of the Fifth judicial district, embracing Polk, Boone, and many other counties. Judge McFarland was well read in the law, and in his normal condition was really a good lawyer. He was possessed, however, of peculiarities of habit and manner through which he became quite celebrated. The long list of anecdotes and incidents connected with his administration of the bench formed the topic of conversation at every meeting of two or more lawyers, and often of those who had been on juries in his court. The misfortune of Judge McFarland's life was his very intimate association with John Barleycorn, not only in his social periods, but while he was upon the bench. His character and history were certainly very unique.

Among the Des Moines lawyers at that time was **W. W. Williamson,** a lawyer of liberal education and fully up to current knowledge of the law at his time. He was

a very exemplary and carefully industrious man, and always faithful to his client and his cause. He remained at the bar for very many years, but later went to Kansas and embarked in other business. **J. A. Williamson,** who was in no way related to the preceding subject, was a lawyer, although he never devoted himself exclusively nor mainly to its practice. He was a man of very strong mentality and considerate judgment. At the breaking out of the rebellion he entered the military service as adjutant of the Fourth Iowa infantry. His patriotism, bravery and broad capacity secured for him rapid promotion to the rank of colonel, and with that rank he was for a long time in command of a brigade. He was with Sherman in his march to the sea, and near the close of his service was made brigadier-general. After the war, and during Grant's second administration, he was commissioner of the general land office at Washington, and afterwards he became very successful in railroading and the accumulation of wealth. He surely would have attained great eminence at the bar if he had confined his entire attention to the practice of the law.

Byron Rice was among the early lawyers in Des Moines, but after practicing law for a short time, he was elected county judge. The duties of this office demanded much of his time, and were very responsible duties. That office then was the executive office for the county, taking the place of the former commissioners and the now board of supervisors. The county judge also had charge of the administration of estates. It was an honorable and responsible office and required good business and executive ability as well as a knowledge of the law. Judge Rice's administration of that office was highly acceptable. At its close he entered into the business of banking, his firm being Greene, Weare & Rice, in which business he continued for several years, and later he returned to the practice of the law and obtained an enviable reputation therein.

T. W. Woolson, of Mount Pleasant, was at that time the leading lawyer of Henry county, and was very successful and distinguished. He served his state not only in the practice of the profession, but he was for several successive terms a member of the state senate and attained an enviable reputation therein for his watchfulness of the treasury against improper expenditures, and also for his care in the preparation of laws. He was associated while in the senate with several of our most distinguished senators, several of whom afterwards became governors of the state, and he maintained well his standing and reputation along with these. In this connection it seems natural, though somewhat out of order in point of time, to mention his son, **John S. Woolson,** who followed in the footsteps of his father, not only in the practice of the law, wherein he ranked quite equal to his father, but also in his service in the state senate, wherein he served the same time as did his father, twelve years, and attained the same enviable reputation as a guardian of the finances of the state as well as in the wisdom of the laws and policies which he supported. At the close of his term in the senate, he was appointed United States district judge for the southern district of Iowa. As a judge he was celebrated for his painstaking care in the trial of cases and the conducting of the business of the court and in the correctness of his decisions. Much of the business of the court at that time was in the administration of the criminal laws of the United States, in connection with misdemeanor offences, and by his prudence, discretion and vigorous administration of that branch of the law accomplished very much for his district and the government. After his appointment as judge he removed to Des Moines, where he died, universally lamented, in December, 1899. He was justly distinguished for his high character as a citizen and judge.

Returning to the Dubuque bar, we find worthy to be noticed in this chronological connection, **David S. Wilson,**

a lawyer of eminence, who continued in the practice of the law for many years. He was a brother of Judge Thos. S. Wilson, and in the latter part of his career the two brothers were in partnership in the practice of the law. David S. Wilson was very industrious, and a painstaking and a close lawyer. He developed to the court all there was on his side of the case, and his practice was marked with more than the average success. Mr. Wilson was in 1846 elected to the general assembly of Iowa and served a term in the house when he was barely twenty-one years old. Ten years later he served one full term in the state senate. He was prosecuting attorney for the district for two terms. He was also in the military service during the Civil War. He was made colonel of the Sixth cavalry and was sent against the Sioux Indians, then engaged in a massacre in Minnesota. He served something over two years, and then resigned his command and returned to Dubuque, resuming his practice of the law. He also served thereafter six years on the district bench of this state. It may well be said that David S. Wilson, through his service at the bar and on the bench, contributed much to the wise jurisprudence of Iowa. His death occurred in 1881.

Samuel A. Rice was one of the strongest young men coming from the East (he was born in New York) to make his permanent home in Iowa. He had the advantage of a liberal education and a two years' course in the study of the law. In 1850 he located at Fairfield, Iowa, where he remained for two years, and then went to Oskaloosa and formed a partnership there with E. W. Eastman. The firm built up a large and successful practice, and no man in that portion of Iowa seems to have equaled Mr. Rice in the measure of his success, development and advancement. He was justly noted for the thoroughness and breadth of investigation which characterized the preparation of his cases. He was made county attorney in 1852

and in 1856 he was elected attorney-general of the state, wherein he distinguished himself. He was re-elected again in 1858, and served the state in that capacity for full four years with very great ability and approval. He attained a high reputation as a rostrum speaker as well as for his arguments in the forum. In August, 1862, he was appointed colonel of the Thirty-third Iowa infantry, and directly thereafter entered upon active military duties. In the profession of arms, as in the profession of the law, he manifested marked ability and was soon promoted to brigadier-general. His service was rendered chiefly in the Southwest. He was in numerous battles, and he received a mortal wound in the battle of Jenkins' Ferry. He was taken home in July, 1864, where he died, lamented by every citizen of Iowa.

Henry C. Caldwell came early to Iowa, a child in his father's family, and settled in Van Buren county. He turned his attention while a mere boy to the study of the law, and entered the law office of Wright & Knapp in Keosauqua when but little over fifteen years of age. After he was admitted to the bar he became a member of the firm, and gave unmistakable evidences of that ability which secured him subsequent distinction. Indeed, as a young lawyer he took high rank. When twenty-seven years old he was elected to the general assembly of Iowa and was appointed chairman of the judiciary committee of the house, an unparalleled distinction. At the breaking out of the Civil War, he was made major of the Third Iowa cavalry and afterwards became its colonel. His military service evinced the same characteristics which had manifested themselves during his labors in the profession and the legislature. In June, 1864, he was appointed by President Lincoln, judge of the United States district court, for the District of Arkansas, in which state greater progress towards the suppression of the rebellion had then been made than in any other of the slave states.

His service on that bench was marked by ability, industry and sound judgments. He attained his seventy years, and ten years of it on the bench, in 1902, and shortly thereafter retired from active duties, although his vigor and activities have remained to a wonderful degree.

We should have mentioned before, because of more kindred chronology, **J. D. Templin,** a lawyer of Iowa City, who attained prominence in the early bar of Johnson county and maintained his practice and usefulness for many years. He was an industrious and careful lawyer. Later in life he wrote several volumes of a law work, which he entitled "Templin's Abridgment."

W. Penn Clarke was one of the early lawyers settling at Iowa City. He came from Maryland, stopping briefly in Ohio, and arriving at Iowa City in 1844. He was soon afterward admitted to the bar and entered upon the active practice. He was a close student, always industrious, and soon obtained an enviable position at the bar. He surely deserves to be mentioned as one having exerted an influence upon the jurisprudence of Iowa. He became reporter for the supreme court under what was then called the new bench, the judges of which were elected by the legislature in 1855. Mr. Clarke's service as reporter was highly acceptable, not only to the bench but to the bar. He was a scholarly and strong man, and was a member of the constitutional convention, which framed our present constitution in 1857. He was paymaster in the army, and at the close of that service became chief clerk in the interior department at Washington.

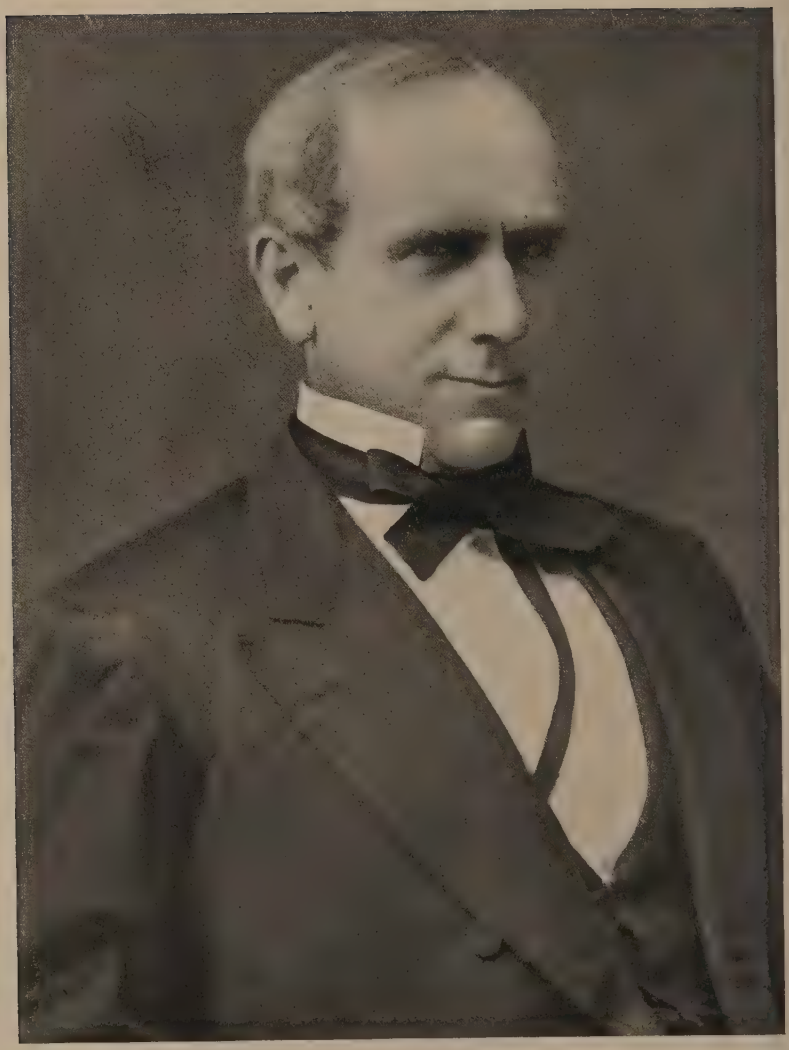
Samuel J. Kirkwood came from Ohio, where he studied law and practiced it for about ten years. Thereafter he moved to and settled at Iowa City. He purchased before moving to Iowa City a valuable water privilege with flouring mills, et cetera, which occupied much of his time and attention. He did, however, devote some time to the practice of the law. He was a man of broad intellect, strong

will power and indomitable energy. In Ohio he had been prosecuting attorney for several years and a member of the constitutional convention of Ohio, and had thereby become familiar with both the practice of the law and the making of laws. Such talent could not be allowed to remain unemployed in public interests. He was elected to the state senate of Iowa in 1856, and served the full term of four years, covering two general assemblies. It may safely be said that he was the leading and dominating senator of that body, and he so impressed himself upon the people of the state that in 1859 he was elected governor, and was afterwards re-elected, thus serving two terms, covering the entire period of the War of the Rebellion. He was justly the most distinguished of all the war governors of the states. His influence upon our jurisprudence was by no means small. It was exerted more through his legislative and executive duties than through his judicial, but to omit his name from those who had helped greatly towards moulding the excellency of our jurisprudence would be unpardonable.

Rush Clark was born in Pennsylvania and had a collegiate education. He studied law at Iowa City and was there admitted to the bar. His thorough culture, his very active and acute mind and his untiring energy won for him, early in his practice, a position in the front rank of the attorneys of this state and of his, then the capital, city. He had a large practice, and his thoroughness in the preparation of his cases won the consideration of the courts. He may be truly said to have made his mark upon the jurisprudence of the state through the decisions of the courts. He, like so many of our lawyers, was soon betrayed into politics, for in 1859 he was elected to the house of representatives in Iowa, and he took high rank as a legislator, so much so, indeed, that he was re-elected, and at the next session was chosen speaker of the house, the duties of which he discharged with great tact and uni-

versal acceptability. After the close of his legislative career he returned to the practice, wherein he commanded a large business, with more than the average measure of success. He was one of the lights of one of three or four of the best county bars in the state. Later, in 1875, his fondness for legislative duties having returned to him, he was elected to congress, where he served one term with marked ability and was re-elected for the second term, but died during the first session of that congress, in 1879. His death, with such a history and with such promise as it gave, was a very severe blow to the state.

William G. Thompson, a native of Pennsylvania, where he acquired a thorough education and also studied law, came to Iowa in 1853 and settled at Marion in Linn county, where he has ever since resided. He entered upon the practice of the law and early secured a good practice, to which he devoted himself faithfully and industriously. Notwithstanding his successful practice and its constant growth, he, like so many of his profession, soon embarked in politics, and was elected a member of the state senate, wherein he served two terms with great efficiency and distinction. He was elected district attorney and served six years in that office, discharging his duties most thoroughly as well as faithfully. In 1879 he was elected to congress from the Fifth Iowa district to fill a vacancy, and was re-elected for the next regular term, which he fully served. Later, in 1885, he was again elected to the general assembly of the state, and was one of a committee chosen by the house to prosecute before the senate articles of impeachment against Auditor Brown, which duty he discharged with recognized ability. In 1894 he was appointed judge of the Eighteenth judicial district, and he has been re-elected since.



GEORGE G. WRIGHT.

CHAPTER XIII.

NEW COURT EPOCHS, NOTICES OF JUDGES, ETC.

In the history of the jurisprudence of Iowa there are epochs. We have already passed two and have reached the third. We have passed the territorial courts and their jurisprudence; also the organization of the state courts following, and have presented something of the jurisprudence thereof. We now come to the state courts organized fully under the constitution, and, in effect, introducing a new bench entire. By reason of the inability of the legislature at its first session after the adoption of the constitution to agree upon and select the judges of the supreme court, some of the judges of the territorial court continued to act for a time as judges of the supreme court of the state. The judges elected by the legislature at its session in 1855 were: Geo. G. Wright, chief justice, and Wm. G. Woodward and Norman W. Isbell, associate judges. It is proper here to refer at some length to each of them.

Geo. G. Wright, elected as chief justice, came from Indiana to Iowa in 1840 and located at Keosauqua. He was educated at the state university of Indiana, and read law with his brother, Joseph A. Wright, who was afterwards distinguished as one of the war governors of Indiana, and was also a United States senator from that state. Geo. G. Wright was as well equipped and panoplied for the practice of the law, doubtless, as any one coming to the territory in all its history. As might well be expected, his practice was good from the beginning, and in a short time he was made prosecuting attorney, and the year after was elected to the state senate, where he served two terms and became the recognized leader of that body.

His election to the position of chief justice of the supreme court of the state was not only a fit but a natural and wise selection, in view of all the circumstances. In 1859, under the new constitution adopted in 1857, a new bench was to be elected and Judge Wright was tendered a nomination for that bench, to be elected by the people; but he declined, and closed his judicial service in that connection at the coming in of the bench elected in 1859. Later, one of the three judges thus elected, Judge L. D. Stockton, died in the first year of his service, and Judge Wright was appointed by the governor to fill the vacancy, and he continued, by election, to fill out Judge Stockton's term, and in the fall of 1865 was nominated and elected for a full term to follow, but before the close of that term he was elected to the United States senate, and in September, 1870, he resigned his position on the bench in order to accept and fill the office of United States senator.

That Judge Wright was specially adapted to service on the supreme bench is abundantly attested by the ability and learning which he manifested in that service, and the universal approval with which his service was accepted. The judicial trend of his mind, his recognition of the importance of the fixed and established rules of law, together with his love of justice and a desire to attain it in every case, were always manifest. It is not necessary to declare that he was the most able and profound jurist that ever sat upon a bench; but it is proper to affirm that his ability and legal learning, together with his practical and considerate judgment, knowledge of human nature and of the motives and actions of men, enabled him to attain wise and just conclusions, quite above the average of jurists. He never lost sight of the principles and rules of law, out of sympathy for parties, by reason of peculiarities of the case, and yet he was not devoid of proper regard for the circumstances of the case or the consequences of the decision to the parties. He held the rules and princi-

ples of law and active and considerate sympathy in safe and proper equipoise. It has been the good fortune of the writer hereof to have had a personal acquaintance, more or less extended and intimate, with every man who has occupied a place upon the bench of the supreme court of the territory and state of Iowa, and an acquaintance with the judicial history of each of them, and upon full and deliberate consideration and review of the services of each, especially taking into consideration the time and the length of such services, he has no hesitation in affirming that, of all of them, Judge Wright is entitled to rank first in the importance and value of his services to the jurisprudence of Iowa and the welfare of its people.

W. G. Woodward, who was a close competitor for the chief justiceship, was elected first associate justice of the supreme court. Judge Woodward's father, W. H. Woodward, was the party defendant in the most celebrated and oft-cited case ever before the supreme court of the United States—The Trustees of Dartmouth College vs. W. H. Woodward. Judge Woodward was not only born in New Hampshire, but he was educated at Dartmouth College and graduated with very high honors. Immediately after his graduation he entered diligently upon the study of the law, and he acquired a thorough knowledge of the subject. He was a cousin and about the same age of Benjamin Rand Curtis, who had graduated and entered upon the study of the law about the same time. After the completion of their studies they were admitted to the bar, and shortly thereafter they formed a partnership and went to Boston to engage in the practice of the law, under the firm name of Woodward & Curtis. The order of the names in the firm, together with the great distinction which his partner, who afterwards became judge of the supreme court of the United States, attained, affords something of a key to the recognition which Judge Woodward had early at the bar. His firm acquired, with unusual

promptness, a fine paying practice, and each member was looked upon as having assurances of a successful and distinguished future. But close attention to business and the tendency of the climate very shortly developed in Mr. Woodward indications of pulmonary disease. Considerations of health prompted the sacrifice of his business and its fine promise and led him to Iowa where he had a relative. He came to Iowa in 1839, going first to Keokuk, where he met his relative and, upon consideration, he determined to settle at Muscatine (then Bloomington). Muscatine, at that time, had a fine promise as a leading city of the future, and had in it several attorneys who afterwards became very prominent. Judge Woodward early took rank along with the best of these, and his practice soon developed his ability and success as a lawyer. He was also encouraged by the restoration of his health, and from the first he had no occasion to regret his location. The first session of the legislature of the state appointed three commissioners to prepare a code of practice for Iowa. Judge Woodward was elected one of these commissioners and this appointment is abundant evidence of the recognition of his learning and ability as a lawyer; and these become more intensified when it is remembered that his associates on that commission were ex-Chief Justice Mason and Stephen Hempstead. Mr. Hempstead was elected the second governor of the state, and the duties of that office demanded much of his time, so that the larger part of the code was prepared by Judge Mason and Judge Woodward, between whom most of the honors for the excellency and acceptability of it are chiefly to be awarded.

Judge Woodward served out his full term with great acceptability and retired at its close, upon the accession to the bench of the supreme court of the three judges who were elected by the people, under the new constitution of 1857, at the general election of 1859. His opinions are

specimens of pure and perspicuous English, and indicate the high degree of culture he received when a student at college. They are very uniformly logical, sequential and exhaustive, and reach sound and satisfactory conclusions. Judge Woodward was not only learned in literature and the law, but he was always a courteous and considerate gentleman. His influence in every way was elevating, and his contribution to the judicial history of Iowa cannot be too highly commended.

Norman W. Isbell was a native of Ohio, where he received a good common school education. He then entered upon the study of the law, which he completed before coming to Iowa. He located in Marion, and opened a law office there directly after his arrival in 1842. Legal business came to him about as to others in his own and neighboring counties, and fully sufficient to enable him to demonstrate his ability and his knowledge of the law, which he did to such a degree as to acquire the confidence of the courts, his brothers of the profession and the people. At that time the business affairs of the county were managed by a county judge, who was also clothed with exclusive jurisdiction in probate matters, and limited jurisdiction in other judicial fields. It was a very important office, and one wherein a competent man could not only guard, but greatly promote, the business interests of the people of the county. The probate department of the law is always one of great importance, largely more so than is generally recognized or appreciated. This will appear when you recall the fact that the entire property of the country must pass through the administration court once every generation; and that the infant's interests in property as well as in person are intrusted to that court. After he had been practicing for three or four years, he was elected to the responsible office of county judge, and he administered the duties of the office with marked ability. In his administration of the financial and business affairs

of the county, his clearness of comprehension, not only of his duties, but of the business and interests of the county, were recognized, and especially the perfect integrity which characterized all of his actions in connection with that department. At that time Linn county, having in it the prosperous city of Cedar Rapids, was one of the most populous and important counties of the state. He acquired in the discharge of the duties of that office a most enviable reputation, both for his capacity and integrity. In the judicial branch of his duties, for which he was especially fitted by his legal learning, his administration was alike successful and satisfactory.

Shortly after the expiration of his service as county judge and in 1854, he formed a partnership for the practice of the law with N. M. Hubbard of that county, who was certainly in the very front rank of the practicing lawyers of the state. Their business was fully up to what such a firm would be expected to do. Mr. Isbell was distinguished for his clearness of presentation of his cases and for his industry in connection with them. No member of the bar in his county had better reputation than he. In 1855 he was elected by the legislature associate justice of the supreme court and entered upon the discharge of his duties. His opinions evince the research which he gave to his cases while at the bar, and are models of directness and precision. Judge Isbell was quite the junior of his associates on the supreme bench, Judge Woodward being the senior of both his associates. By reason of failing health, which was attributed by him largely to the duties in connection with his position, he resigned his position as judge of the supreme court in May, 1856, and returned to the bar. Directly after his return to the bar the partnership between him and Judge Hubbard was renewed. Later, in 1862, he accepted an appointment as judge of the Eighth judicial district, and continued service on that bench until the latter part of 1864, when, on ac-

count of his health, he resigned that position and removed to California. Judge Isbell's faithful and persistent industry, breadth of capacity and thoroughness of legal learning, together with his recognized and undoubted honesty and integrity, won for him a high place in the estimate of all his acquaintances, and enabled him to accomplish much for the jurisprudence of his adopted state.

L. D. Stockton was in May, 1856, appointed by Governor Grimes, judge of the supreme court to fill the vacancy caused by the resignation of Judge Isbell. Judge Stockton was a native of Kentucky, but came to Iowa in 1836 and located in Burlington. He had been admitted to the bar before removing to Iowa, and brought with him that measure of experience which enabled him readily to take up the practice in his new location. Judge Stockton, however, was not possessed of that measure of aggressiveness necessary to secure the fullest amount of business, when brought in competition with lawyers possessed of that characteristic and that broad measure of ability which so generally characterized the early bar in Burlington. His legal learning and attention to business gave him a most enviable reputation for learning in the law, fidelity in its practice and the measure of average success. He had the fullest respect of his associates at the bar for his attainments and his capacities for business, of which he secured at least a respectable proportion. We have before spoken of the great learning and the breadth of capacity of the members of the bar in Burlington, in which commendation Judge Stockton was justly included. Governor Grimes was among his competitors, and had learned of his ability and worth as well as of his legal learning and integrity. Therefore, when the duty was devolved upon Governor Grimes to select a suitable person for judge of the supreme court, he instinctively and naturally turned to Judge Stockton as the very man for the place.

Judge Stockton was endowed by nature with a broad

and vigorous comprehension. His literary education was quite extended and versatile; his knowledge of the law was very broad and quite equal to his distinguished associates at the bar in Burlington or in the territory. In his investigation of cases, whether at the bar or on the bench, he gave attention to the prominent and controlling features of them, and he had but little patience with and gave but little attention to acuteness of discussion or to technicality in any of its forms. In the preparation of his opinions, he seized the leading and controlling points in his case, and discussed them with a vigor and comprehensiveness and with a force of reasoning seldom surpassed. If his opinions could be subjected to any criticism at all, it might be the possible one that the language used, in disposing of the case before him wisely and correctly, might, by reason of its breadth, be made to apply to some case not within the principle of that decided. In this regard he was not different from Judge Caleb Baldwin, one of his successors on the bench. Upon the whole, his opinions are very uniformly highly acceptable, and evince the proper and comprehensive grasp of the case as, in plain and vigorous language, he advances to his conclusions. As applied to the case decided, neither the correctness of his language nor his logic can be questioned. He made no claim to astuteness, nor did he give heed to it when addressed to him from the bar. Judge Stockton was a broad-minded, thoroughly able and dignified judge, of the highest character and unquestioned integrity.

With the change of the personnel of the bench, there came naturally and almost necessarily a change of reporters of the decisions of the court. **W. Penn Clarke,** of Iowa City, was appointed reporter for the new court. We have before spoken of Mr. Clarke as an able and industrious attorney, and it is fairly due to him that we should here state that he was a most capable, industrious and competent reporter. Iowa has been fortunate in the re-

porters of the decisions of the supreme court, and Mr. Clarke stands very high in this list. The court adopted as the style of its reports simply "Iowa Reports," and the volumes were so bound, with the name of the reporter lower down on the back of the volume.

CHAPTER XIV.

REVIEW OF CASES, ETC.

Early in the first volume, there is reported the very interesting and important divorce case of Hinds v. Hinds (1 Iowa, 35), the opinion in which was prepared by Wright, chief justice. It was a very vigorously contested case, wherein the counsel made very exhaustive argument, and the court, in an opinion covering twenty pages, discussed the leading question in the case, which was one of residence, exhaustively, with numerous citations of authority, and holding that, to maintain an action for divorce in this state, it is necessary that the plaintiff shall have a legal residence here—a fixed habitation with no present intention of removing therefrom—actual residence alone not being sufficient, but that it must be such a residence that, when a man leaves it temporarily or on business, he has an intention of returning to it as his domicile. The counsel in the case were J. W. Rankin for the appellant, and Samuel F. Miller for the appellee—two of the then most distinguished attorneys in the state, and of whom we have before spoken. The court below rendered judgment for the plaintiff, which the supreme court reversed because of want of sufficient proof of the residence of the plaintiff in the state.

Andrews v. Brown (1 Iowa, 154) was a suit involving a question which then was new, to-wit, that of the manner of assigning an open account so as to make it legal and

effective under the Code. The opinion was prepared by Isbell, Justice, holding that an open account for sums of money due on contract may be assigned under the Code, but such assignment must be in writing in order to vest in the transferee a right of action in his own name. From this opinion of the majority Woodward, justice, who, it will be remembered, was one of the commissioners preparing the Code construed by the judgment in the case, gave a vigorous dissenting opinion, citing numerous authorities. The attorneys in the case were Wm. Penn Clarke for appellant, and James D. Templin for appellee, both citizens of Iowa City, and of whom we have heretofore spoken.

In Chance v. Temple (1 Iowa, 179) which was a case for mandamus to compel a school fund commissioner to convey certain land to a claimed purchaser thereof, the whole doctrine of mandamus at the common law was most concisely and perspicuously stated in an opinion by Isbell, justice. The opinion covers about thirty-five pages of the report, and has been recognized ever since as a leading, exhaustive and sound opinion upon the doctrine of mandamus at the common law. Under our Code the action has been very materially changed, more so, in fact, than any other of the common law actions; and yet Judge Isbell's opinion has ever been accepted in the entire judicial history of the state as stating correctly and precisely the principles applying to the action.

In a later case (Pierson v. **Armstrong, 1 Iowa,** 282), decided at the same term, the opinion prepared by Woodward, Justice, gives an exhaustive and learned discussion upon the subject of mistake of fact as contra-distinguished from a mistake of law, wherein he reviews numerous authorities, the opinion covering some twelve or more pages of the report. It may well be said that the opinion is a masterful one and shows well the diction, logic and mental characteristics of its author.

At the same term the case of Cavender v. Heirs of Smith (1 Iowa, 306), involving judicial sales, elicited a very extended and able opinion which was prepared by Wright, Chief Justice, citing and reviewing numerous authorities. It has always been recognized as a leading case, and the opinion covers some thirty or more pages. The entire case was ably argued by J. C. Hall and Henry W. Starr for the appellant, and M. D. Browning for the appellees. The first volumes of the Iowa Reports contain the points and authorities made and cited by counsel. Numerous cases in those volumes show the value to the court of strong and exhaustive presentations of the opposite sides by able counsel.

In the second volume there is a case entitled "Moreland v. Page" (2 Iowa, 139), wherein were involved the principles and rules for determining controversies respecting the boundaries of land owned by different parties, in case of lost government surveys, and the apportionment of the shortages and excesses found. The case was ably argued by H. A. Wiltse and Clark & Bissell for the appellant, and by Smith, McKinley & Poor and T. Davis for the appellee. The opinion was prepared by Isbell, Justice, and well illustrates his thoroughness, care and consideration in the preparation of opinions. It is a very strong opinion, and gives unmistakable indications of the time and study bestowed upon it. We have heretofore spoken of the counsel appearing in the case except **Mr. Wiltse**, who located at an early date in Dubuque, and was soon recognized as a man of large experience, thorough culture and studious habits. He was recognized as in the very front rank of the Dubuque lawyers, who were not second to those of any bar in the state. He was a man, too, of rare social qualities and was justly popular. Neither have we spoken of **B. W. Poor,** who was one of the oldest practitioners in Dubuque, and was one of the most faithful, persistent and successful attorneys at that

bar. He was very deliberate, and always considerate in the investigation and presentation of his cases. He continued at the bar very many years, and had a high reputation for his integrity and manly bearing.

A case entitled "Santo v. The State" (2 Iowa, 165) involved constitutional law and the construction of a statute and attracted a great deal of public attention, and received thorough consideration by counsel and court. It was a prosecution for the sale of intoxicating liquors contrary to "An act for the suppression of intemperance" passed by the legislature in 1855. The act contained a goodly number of sections, and was complete in itself, and prescribed the penalty for the illegal sale of intoxicants, and was full and complete. There was, however, added to this act, complete in itself, three other sections, the first of which provided that the act should be submitted to a vote of the people at the next general election. The second provided for the making of the returns and the canvassing of the vote. The third provided that if a majority of the votes were cast in favor of the act, then it should become a law in full force; but if a majority should be cast against it, then it should have no force or effect. Or, in other words, these added sections made the taking effect of the act and its entire vigor as a statute to depend upon the result of the vote of the people at the next general election. The majority of the votes were found to have been cast in favor of the law. This prosecution was under that statute.

The first defense interposed by the defendant was in denying the constitutionality, or rather the force and effect, of the law under which the prosecution was had. It was claimed that the entire legislative power of the state had been delegated by the constitution to the legislature; that the people could not, in their primal and aggregate capacity, enact a statute, for that the legislature could not delegate that power to the people; that it was a settled

and invariable doctrine of the law that delegated power could not be delegated. To this the counsel for the prosecution answered that the law was complete in itself and a formal enactment by the legislature without the three sections, and that the three sections only were invalid; that under the law it was well settled that a statute might be constitutional in part, while it was unconstitutional and invalid in other parts, and that only the three sections which attempted to delegate to the people the power to vote upon it were unconstitutional and invalid.

A majority of the court, in a very able and searching opinion by Woodward, justice, held that the general assembly cannot constitutionally submit to the people the proposition whether an act can become a law or not; and that the people had no power in their primary or individual capacity to make laws; but that there is no doubt of the authority of the legislature to pass an act to take effect upon a contingency; that the constitution prescribes how laws shall be enacted, and they can be enacted in no other way; that the legislative authority is vested in the general assembly, and the style of their laws, as by the constitution prescribed, is: "Be it enacted by the general assembly of the state of Iowa," and in this way only can a bill become a law; that a vote of the people cannot make an act become a law, nor can it prevent it becoming one. But the court further held that an act of the legislature may be unconstitutional and void in part and valid in part, and in such case only the void part shall be rejected; that the "act for the suppression of intemperance" is a complete act in all its parts, without the sections submitting it to a vote of the people; that no part of the act depends upon those sections for its efficacy; that the vote of the people was not unconstitutional, but the section submitting it was, and the vote was therefore nugatory; that the whole act can be carried into effect without the sections submitting it, as well as with them; that they alone are therefore

unconstitutional and void, the balance being complete and valid. Wright, Chief Justice, dissented from this latter view, and filed a vigorous dissenting opinion, not denying that a law could be made to take effect upon a contingency, nor denying that a statute could be valid in part and void in another part, where the valid parts were complete in themselves and their taking effect could be construed as within the intent of the legislature; but, in effect, the chief justice held that the language of the act which provided that it should not take effect except upon the vote of the people, manifested the legislative intent not to make it a binding statute without the vote. The discussion in the two opinions is very exhaustive, and covers about forty pages of the report. No case involving the same or similar question has since arisen.

Another case entitled "The State ex rel. Wier v. The County Judge of Davis County" (2 Iowa, 280), involved a constitutional question, although quite different from the last, and resulted in a like division of the court. It was an action in mandamus to compel the county judge to enter an order opening a certain road. It was claimed that the specified road was established by, "An act in relation to certain state roads therein named." The defense was grounded upon the claim that the act was contrary to the constitution, which declares that, "Every law shall embrace but one object, which shall be expressed in the title." The act in question contained sixty-six sections, in which it established forty-six roads, vacated several, and provided for the relocation of others. The court, in an opinion prepared by Woodward, Justice, held that the act was valid and not in conflict with the section of the constitution above quoted. The court sustained its views in a well reasoned opinion, making analogies of the act in question with the act "for revenue," which contained provisions concerning the county treasurer's power to levy on and sell personal property as a constable, and nu-

merous other powers, also with the law relating to pedlars' license, and the school laws. Wright, Chief Justice, filed a very brief dissenting opinion, stating: "I am not prepared to hold such legislation constitutional, but inclined to hold that the objection is well taken."

The first case found in the third volume of the Iowa Reports (McManus v. Carmichael, 3 Iowa, 1) is recognized as a leading case in this country on the question of riparian rights. The case was very elaborately argued by the then well recognized most able counsel in the state, Whitaker & Grant for the appellant, and Cook & Dillon for the appellee. The case was very exhaustively argued by the counsel on either side, and the authorities very fully discussed. The points and authorities made and cited by each of the counsel are given concisely in the report. The opinion was prepared by Woodward, Justice, and it is a fine example of his style and power. The case was an action by the plaintiff against the defendant for the value of two flat-boat loads of sand, taken by the defendant from between high and low water mark of the Mississippi river in front of an island owned by the plaintiff. The court below gave judgment for the plaintiff. The supreme court reversed that judgment, holding that, although the ebb and flow of the tide was, at the common law, the most usual test of navigability, yet it was not necessarily the only one; that the term "navigable" embraces the idea that the waters can be navigated in fact, and also the idea of publicity, so that saying waters are public is equivalent, in a legal sense, to saying they are navigable; that the navigability in fact was the leading idea, and was the ground of their publicity.

The ebb and flow of the tide is not applicable to the Mississippi river as a test of its navigability, and as a real and virtual test the tide is a merely arbitrary one, and is not supported by reason. It is navigability in fact which forms the foundation for navigability in law, and from the

fact follows the appropriation to public use, and hence its publicity and legal navigability. The real test of navigability here is ascertained by use, or by public act or declaration, and by these the Mississippi river is a public highway in the highest sense.

The common law knows but two lines, the filum aquae, and high water mark. If the stream be navigable, the owner's boundary is the one, and if not navigable, his boundary is the other. This rule applies to the Mississippi river, which has been declared a public highway and navigable in a legal sense, and is subject to the consequences which attach to such waters at the common law.

The owner of an island in the Mississippi river has not a title to the land between high and low water mark, so as to enable him to maintain trespass for taking sand therefrom; but this does not preclude the idea that he may have some rights there, peculiar to himself, and not common, such as the right to make wharves or to prevent acts there injurious to his adjacent land, or the like.

Cooper v. Sunderland (3 Iowa, 114) is a leading case in which the question of the jurisdiction of courts, and the effect of the presumptions where the record is from an inferior court, were very elaborately discussed by counsel and exhaustively considered by the court. The importance of a case and the value of a decision is often very materially affected by the ability of counsel presenting the case to the court. In the case under consideration, David Rorer and Browning & Tracy were for the appellants, and J. C. Hall for the appellee. We have heretofore spoken of Mr. Rorer, M. D. Browning and J. C. Hall, but have not heretofore referred to Joshua Tracy. Our failure to mention Mr. Tracy hitherto has been because of the failure to find his name connected with any case discussed.

CHAPTER XV.

NOTICES OF SOME ATTORNEYS.

Joshua Tracy was a native of Ohio, where he received a liberal education. He studied law after he came to Iowa and with M. D. Browning, with whom he was afterwards in partnership. He was admitted to the bar in 1852, and the following year he was elected city attorney for Burlington. He was a member of the house of representatives in the general assembly of Iowa for the session of 1854-5, and the called session of 1856. His practice was unusually full from the first, and the offices which he filled gave him prominence, enabling him to command, always, a full measure of practice. In 1858 he was elected district attorney for the first judicial district and was twice re-elected. He had no superior as district attorney in the state, and his long service therein, together with his marked success, gave him a most enviable reputation. His duties as district attorney, however, did not preclude him from taking business on the civil docket, and his practice throughout his district was very large. We have spoken of the learning and great ability of many of the attorneys in Burlington, and Mr. Tracy ranks well along with the first and ablest of them. Before his terms as prosecuting attorney were ended, he was appointed district judge to fill the vacancy caused by the resignation of Judge Francis Springer, one of the most able district judges the state ever had. Judge Tracy filled well the vacancy to which he was appointed, and was elected to a full term in 1870. He served out this term but, by reason of the small salary paid to district judges, felt compelled to resign his position as judge and decline further service therein. He returned to the bar and very soon regained his former business, and

continued successfully to practice his profession. It may well and truly be said that Judge Tracy was a most zealous worker in his profession and attained the highest recognition as a lawyer. His singularly winning and gracious ways made him a universal favorite. No man at the Burlington bar had a more successful or popular career.

The opinion in the case was by Woodward, Justice, who, as a judge, seemed to want to outrival counsel in the exhaustiveness of his investigation and review of authorities. His opinion, in this case covering nearly twenty pages, is no exception to that rule. Numerous cases were cited and reviewed in the disposition of the several questions made. The case involved the question of the conclusiveness of the proceedings in a guardian's sale of his ward's real estate. The pivotal question in the case was as to the presumption attaching to the judgment of the court ordering the sale. The court held that, in respect to courts of general jurisdiction, every presumption is made in favor, not only of their proceedings, but of their jurisdiction. This presumption is not exercised, however, in relation to the jurisdiction of a court which is inferior or limited, but its jurisdiction must be shown; but when the jurisdiction of a limited court is shown, the same presumption prevails in favor of its proceedings that does in favor of courts of general jurisdiction. When the jurisdiction of an inferior court has actually attached, it will not be lost by an irregularity in the mode of exercising it; and when the jurisdiction is once shown or admitted, the judgments of superior and inferior courts stand on the same footing, and are equally and absolutely conclusive, when attacked collaterally.

In Iowa, the usury laws have been so mild in their penalties as neither to stimulate the fears of usurers nor to excite the cupidity of borrowers, and hence but little litigation respecting them is to be found. A case (Gower

v. Carter, 3 Iowa, 244) involving some phases of the questions of usury was before the court at its December term, 1856. The opinion, which was delivered by Stockton, Justice, is indeed a quite thorough discussion of the questions involved. Judge Stockton was not as much given to the citation of numerous authorities as was Judge Woodward. Two of the points decided in the case may be stated as follows: Where a party executes his promissory note and agrees thereby to pay a sum of money by a day certain, and more than legal interest afterwards by way of penalty if the debt be not punctually paid, such note is not usurious; which together with this further proposition seems to level up the advantages upon either side, to wit: No damages for the mere non-payment of money can ever be so liquidated between the parties as to evade the provisions of the law which fix a rate of interest. The counsel in the case have heretofore been fully noticed.

In another case at the same term (Penley v. Waterhouse, 3 Iowa, 418) the question of the statute of limitations was very ably presented by counsel, and very fully, ably and exhaustively discussed in a seventeen page opinion by Wright, Chief Justice. It is clearly a leading case in Iowa, and as such well deserves notice in this connection. The counsel making the argument for the appellant in the case was W. Penn Clarke, of whom we have before spoken. The counsel for the appellee was **Geo. D. Woodin,** who came to Iowa in 1853 from Pennsylvania, where he received a college education, earning his own way. He also read law in that state and practiced there a little over a year. He settled at first in Iowa City, and was a very industrious, energetic man and lawyer. The year after he came to Iowa City he was made prosecuting attorney for Johnson county; in 1855 he was elected mayor of Iowa City; in 1856 he was elected to the legislature from Johnson county and served one term. In each of these positions, his industry, fidelity and ability were

fully manifested. No officer ever served with more success or satisfaction than he. In 1857 the capital was removed from Iowa City to Des Moines, and contemporaneously therewith Mr. Woodin moved to Sigourney, Keokuk county, and continued his practice. The next year he was elected district attorney for the Sixth judicial district, and discharged his duties connected therewith with quite more than usual industry and success. His civil practice was also, during all these years, very large. He attained the highest rank as a practitioner. With the characteristics already indicated, it is quite unnecessary to add that with his professional success came also financial competence.

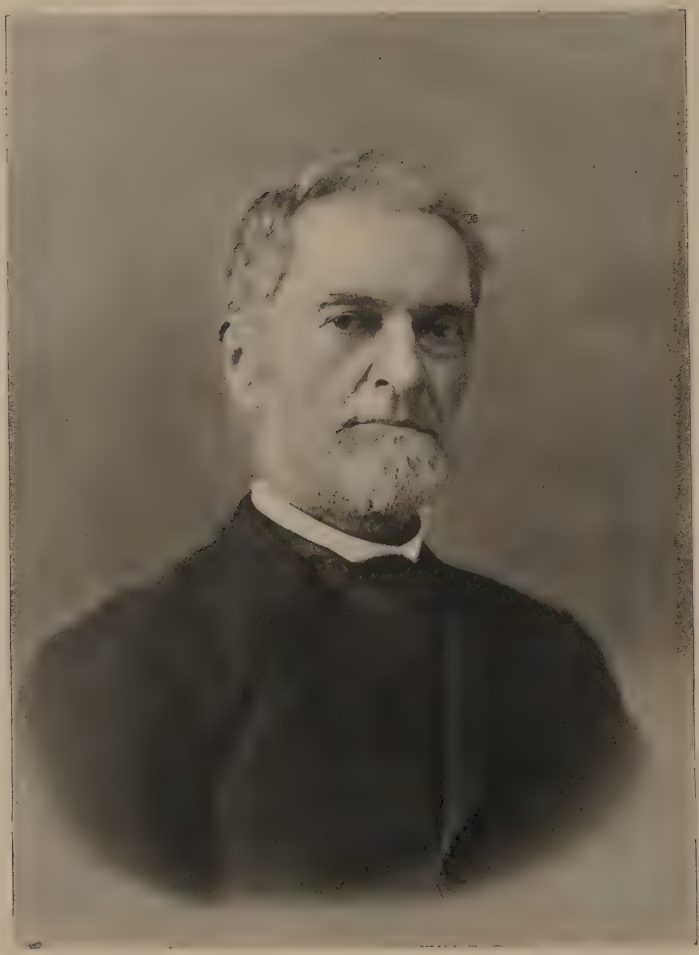
Among the lawyers locating at Keokuk in Lee county in the early history of the state, there are others than those we have already mentioned deserving notice in connection with this chronology. **Wm. W. Belknap** came to Iowa in 1853, being a native of New York. He was a graduate of Princeton College and had been admitted to the bar in his native state some two or three years before. He formed a partnership with Ralph P. Lowe, who was afterwards governor of the state, and at that time a leading practitioner, as he had been theretofore the very leading practitioner in Bloomington (afterwards Muscatine). Mr. Belknap was well panoplied for the practice of the law, for, besides his literary attainments and thorough knowledge of the law, he had a fine personnel, and was aggressive and industrious. He was elected to the house of representatives of the Seventh general assembly and took a prominent and active part in the legislation of that session. With his attainments and characteristics he would be and was always prominent in any association or business in which he engaged. He continued the practice of the law until the breaking out of the War of the Rebellion, when he was made major of the Fifteenth Iowa infantry and commanded that regiment at the bat-

tle of Corinth. He was afterwards on the staff of General McPherson, and after the battle of Atlanta was promoted to brigadier-general, and at the close of the war was brevetted major-general. He was also offered a commission in the regular army, but preferred to return to civil life. Shortly after his return from the war he was made collector of internal revenue for the first district in Iowa. When General Grant became president, General Belknap was made his secretary of war and discharged its duties with efficiency and fidelity.

Geo. W. McCrary, a native of Indiana, was brought by his parents to Van Buren county when he was but two years old. He is, therefore, very essentially an Iowa man. He received a liberal education, and before he attained his majority began the study of law with Miller & Rankin in Keokuk. He was admitted to the bar as soon as he had attained his majority, and at once entered upon the practice. The year following, when he was only twenty-two years old, he was elected to the house of representatives in the general assembly of Iowa. He was the youngest member of that body, but by no means the least in influence. In 1861, he was elected to the senate and he took rank among the first of its members, despite his then extreme youth. He became conspicuous and very prominent throughout the state for his activity and manifestation of ability while in the senate. He continued his practice of the law continuously, when not actually engaged in the discharge of his official duties. When Samuel F. Miller was appointed to the bench of the supreme court of the United States, Mr. McCrary took his place in the firm. In 1868, when only thirty-three years of age, he was elected to congress and took his seat as one of the youngest members of that body. He was re-elected for the following three successive terms, and discharged his duties with very marked ability and usefulness. He was made chairman of the committee on elections and inaugurated and

adhered to the doctrine of fair and judicial determination of contests regardless of party lines. He afterwards prepared a legal treatise upon the law of elections, which became standard authority. In a subsequent congress, he was made chairman of the committee on railways and canals, and he made a masterful report on the constitutional power of congress to regulate railroad commerce among the states. He presented a bill embodying his views, which passed the house after strenuous debate. He prepared and reported the bill providing a commission for settling the contest between President Hayes and Samuel J. Tilden, and was himself made a member of that commission. His success in every department of his professional and official labor was unparalleled. He was made secretary of war by President Hayes and served three years in that position, when he was appointed United States judge for the Eighth circuit, embracing Iowa. He brought to the bench a mind rich, not only in the knowledge of the law and its administration, but sound and comprehensive in the ethical phases of the law. He attained the highest rank as judge, as he had attained the highest rank among his associates in every public duty. After about four years' service upon the bench, he resigned that position and was made general counsel for the Santa Fe railway system and thereafter made his home in Kansas City. No lawyer in Iowa has ever stood higher or rendered more faithful and profitable service to its jurisprudence than George W. McCrary.

H. Scott Howell was a native of Ohio and became a college graduate with first honors. He studied law in Cincinnati and was admitted to the bar there and practiced two years before he came to Keokuk, Iowa, which was about 1856. His thorough culture, literary and legal, and his limited experience qualified him for entering at once upon the practice in Iowa, and he early acquired a most excellent clientage. He became prominent, very soon, in



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both temperance and church work, and established a character for both integrity and ability, which assured him professional success. He took no active part in politics, and was never a candidate for office. He was distinguished for his thoroughness in the preparation of his cases and thereby, as well as by care in the acceptance of employment, became quite more successful in his practice than the average lawyer.

Reuben Noble was a native of Mississippi, but was brought by his parents to Illinois when about twelve years old. He received a good common school and academic education. He began the study of the law when about twenty-one in Mineral Point, Wisconsin, and was there admitted to the bar in 1842. He practiced law there for about a year, and then moved across the Mississippi river and settled in Garnavillo, Iowa, then the county seat of Clayton county. He secured a large practice and came to be recognized, very early, as the leading lawyer of his county. In 1857 he removed to McGregor in the same county, and his practice there continued large. He was elected prosecuting attorney of Clayton county and held the office for two years. In 1854 he was elected to the house of representatives in the general assembly of Iowa and, although without legislative experience, was elected speaker of the house, and he discharged its duties with marked impartiality and good satisfaction to all members. In 1874 he was elected judge of the Tenth judicial district embracing Clayton and other counties, and discharged the duties of that office most acceptably. He had a good, strong and comprehensive mind, and naturally took a judicial view of every question presented. His strong common sense and unqualified integrity made him a most acceptable judge. He had no fondness for hair-splitting controversies. He did much towards the laying wisely and soundly the jurisprudence of Iowa as well as contributing largely to the enactment of wise laws.

John W. Noble was a native of Ohio, and there obtained a thorough college education and studied law with Henry Stansbery, who afterwards became attorney-general of the United States. Mr. Noble was admitted to the bar in 1855, and removed to St. Louis where he continued the practice for a year or two, and then removed to Keokuk, Iowa. He was thoroughly qualified by his education and legal learning for the practice, and at that period such qualifications were sure to call business to the one possessing them. His practice, from the first, was good, not only in its extent, but in its character. He there met the best legal talent not only of the state, but of the country, and he attained a recognition as among the first practitioners in that locality. When the War of the Rebellion began, Mr. Noble was one of the first to take up arms for the maintenance of the Union, for he took part in a local battle at Athens on the Iowa border, not far from Keokuk. He afterwards enlisted in the Third Iowa cavalry and was made adjutant of his regiment. He rose steadily in rank and was, after participating in numerous battles, brevetted brigadier-general. He was, for a time, judge-advocate successively in two departments. At the close of the war he returned to Keokuk, but shortly thereafter he removed to St. Louis. Later, he was solicitor-general, appointed by President Grant, and became secretary of the interior under President Harrison. He manifested the marked ability with which he was endowed in every position occupied by him.

James W. McDill was also a native of Ohio and a graduate of the Miami University. He studied law in his native state and was there admitted to the bar, and then removed to Union county, Iowa. He commenced practice there and secured quite more than the average amount of business. Like many of the Iowa lawyers in that period of the history of the state, he gave attention to politics, sufficiently, at least, to be elected county judge of his

county, and later he became first judge of the circuit court, and afterwards judge in the district court. In 1872 he was elected to congress for the Eighth district, and was re-elected for another term, during both of which he served with great acceptability to his state and the country. In 1878 he was appointed railroad commissioner, and he served as such until March, 1881, when he was appointed United States senator to fill the vacancy occasioned by the resignation of Governor Kirkwood. After the close of his term, he was again appointed railroad commissioner, and later was made a member of the inter-state commerce commission. Judge McDill's services in each and every one of these positions were marked with ability, and untiring industry and devotion to the matter before him, and always with acceptability.

John Shane was also born in Ohio, though educated at Jefferson College. He studied law with Edward M. Stanton, who afterwards became justly celebrated as Lincoln's secretary of war. Mr. Shane was admitted to the bar in 1848, and he practiced at Steubenville for seven or eight years, and attained a good standing at the bar. In 1855 he removed to Vinton, Iowa, and there engaged in the practice of the law, which he continued with distinction and success until in 1861, when he entered the military service as captain in the Thirteenth Iowa infantry. He was promoted successively to major, lieutenant-colonel and colonel. He served with distinction, and was in several important battles, beginning with Shiloh. At the close of his military service he returned home and resumed the practice of the law. He served one term in the state senate, and thereafter was appointed judge of the Eighth judicial district to fill out Judge Miller's term, and later was elected to a full term. Judge Shane was a careful, painstaking, competent lawyer. His services as judge were characterized by this same faithfulness and painstaking industry. He was a man of unquestioned integrity and reliability.

Aylett R. Cotton was another Iowa lawyer honored with being born in Ohio, where he received a liberal education. He came to Iowa in 1844, to DeWitt in Clinton county, where he studied law and began the practice of his profession. He continued the practice and was especially astute and thorough in the presentation of his cases. There have been few lawyers in Iowa more thorough, careful and exhaustive in their examination of the cases entrusted to them than Mr. Cotton. He was elected county judge of his county and served therein one term of two years and then was elected prosecuting attorney. Later he was a member of the house of representatives in the Twelfth general assembly, and was re-elected to the succeeding assembly and was chosen speaker of that house. Judge Cotton was a man with a very active, close and comprehensive mind, and he made a most admirable speaker. He was ready in apprehension and prompt in action. He was afterwards elected to congress from his district, was re-elected, serving two terms with great acceptability. An examination of the reports and of the cases presented to the supreme court by Judge Cotton will convince any one of his marked ability. He removed to California where he continued a successful practice.

Henry H. Trimble was a native of Indiana and a graduate of Asbury University in that state. Directly after graduation he went as a volunteer to the Mexican war and served therein under Colonel James H. Lane. After his return, he studied law with Thomas A. Hendrix, the very distinguished lawyer and statesman of Indiana. Late in 1849 he came to Iowa and on April 29, 1850, was admitted to the practice of the law by Judge J. F. Kinney of the supreme court, at Keosauqua. He located at Bloomfield, Davis county, and continued to reside there for over thirty-one years, engaged in an extensive and successful practice of the law. He served as county attorney for

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four years, and was thereafter elected to the state senate for four years. At the beginning of the War of the Rebellion, he helped to raise the Third Iowa cavalry, and was appointed lieutenant-colonel thereof, and the instructor of drill and military discipline while he remained with the regiment. In 1862, while bravely leading a charge at the battle of Pea Ridge, he was very severely wounded and, by reason thereof, was afterwards discharged for disability. Upon his return home he was elected judge of the Second district, in which he served the full term of four years. Judge Trimble was not only a lawyer with extensive practice, but he was ever faithful and untiring in the discharge of the duties of every position accepted by him. The later years of his practice were devoted to railroad and corporation law, wherein he greatly excelled. In that department of law, as well as in the general practice, he has most unmistakably left his impress upon the jurisprudence Iowa.

CHAPTER XVI.

SOME LEADING CASES.

The first case in the fourth volume of the Iowa reports may well be styled a leading case. It is Foley v. McKeegan (4 Iowa, 1). The question involved in the case was whether the amount stipulated in the contract to be paid by one party to the other, in case of failure to perform it, was to be regarded as a penalty or as liquidated damages. The counsel were among the most able and thorough in the entire state—Smith, McKinlay and Poor, for the appellant, and Ben M. Samuels, for the appellee. The opinion in the case was prepared by Wright, Chief Justice, and it is one of his strongest and model opinions, covering ten pages of the report. We cannot, for want of space, state at any length the points ruled, but the sub-

stance of the ruling was that, while the designation given to the damages by the parties will be considered, yet it is not controlling; but the nature of the contract, the number of the stipulations for performance and outside facts and circumstances may be proved and taken into consideration in order to determine the real intent of the parties, and that intent will control the court.

Another case (Morrow v. Weed, 4 Iowa, 77) is found in the same volume and decided at the same term. The case involved the same questions as were involved in the case of Cooper v. Sunderland, 3 Iowa, 114, hereinbefore referred to. The opinion in this case, as in that, was prepared by Woodward, Justice, and the two opinions, taken together, may well be said to be entirely exhaustive of the subjects considered. The report of the last case covers more than sixty pages.

The case of Haight v. City of Keokuk (4 Iowa, 199), decided at the same term, may well be regarded as a leading case upon the questions of former adjudication, dedication of streets, and boundary of city lots on navigable streams. It is possible that the importance of the case was quite magnified by the counsel engaged in it, although neither of them had then attained any very especial prominence. Samuel F. Miller, afterwards judge of the supreme court of the United States, was counsel for the appellant; and James M. Love, afterwards United States district judge for Iowa, was counsel for the appellee. We have before spoken of Judge Miller.

James M. Love was born in Virginia, but was taken by his parents, when about twelve years of age, to Zanesville, Ohio, where, in addition to what he had before acquired, he obtained a good education. He also studied law at the same place with an older brother, and the character of his mind as well as his own inclination and industry enabled him to acquire a most thorough knowledge of the law, with even ordinary advantages. The experience and prac-

tice of his brother were such as to be of great aid to him in that study. When the Mexican war broke upon the country, he volunteered as a soldier therein, and was elected captain of his company, and served through the entire war. In 1850 he removed to Iowa and located at Keokuk, where, after a little time, he entered into a partnership with Samuel F. Miller in the practice of the law. It is seldom that two men of such learning and breadth of capacity become associated in the practice; but their strength, individually and as a firm, was soon appreciated, as was shown by their business. In 1852 he was elected to the state senate, where he served a full term, being two sessions, aggregating four years, and he was chairman of the judiciary committee. This fact alone shows the appreciation of Judge Love. Three years later he was appointed by President Pierce Judge of the United States district court for Iowa, a position which he continued to hold and to adorn during his entire life. A thorough, intimate and prolonged acquaintance with Judge Love, with opportunities and incentives to measure his mental capacities, enables me, I think, to state that he surpassed any man ever known to me in the capacity to evolve from within himself, and by his own reflection and consideration, sound, wise and correct conclusions from any combinations of facts presented to him. His consideration seemed to give him an exhaustively searching comprehension and correct weighing of every fact in the case. I have often said, and still believe, that to compare Judge Love with another very distinguished Iowa jurist, Judge Dillon, you can best illustrate their respective capacities and characteristics as judges by the statement, that if each were put in a room without books or means of studying up the questions presented, the conclusion of Judge Love would be worth largely more than that of Judge Dillon, but if you put each in a full library and submit to them a like question, the chances are that Judge Dillon's opinion

would be worth largely the most. Judge Love's internal light was much the strongest; Judge Dillon's reflected light would be much the broadest.

Dennis N. Cooley was a native of New Hampshire, where he acquired a good college education and prosecuted the study of the law, pursuant to a long settled purpose. He was admitted to the bar in 1854, and shortly thereafter removed to Dubuque, Iowa. At Dubuque, he pursued the practice of the law, at first by himself, and afterwards in partnership. He acquired a good practice by himself, for he was endowed by nature with a strong and acute mind, and was possessed of ambition and aggressiveness which would not brook failure. He afterwards practiced law as a member of the firm of Samuels and Cooley; later with the firm of Samuels, Cooley and Allison (the latter being now Iowa's distinguished United States senator); and then with Cooley, Blatchley and Adams, the junior member of the firm afterwards being one of the judges of the supreme court of Iowa and chief justice thereof, in which position, his clear, acute and logical mind prepared so many well accepted opinions. Mr. Cooley's ambitions and unusual social qualities were the means of opening doors of promotion to him which to such a man were vastly more attractive and remunerative than almost any practice of the law. After the close of the war he was, for nearly ten years, in the public service of the nation as commissioner of Indian affairs and in service in connection with the restoration of the seceded states. In 1875 he was elected to the state senate from his home county, Dubuque. He was afterwards, president of the First National Bank, and he exerted a potent influence in all the financial affairs of his home city and county.

At the June term, 1857, there was again presented to the supreme court, in Clapp v. The County of Cedar (5 Iowa, 15), the question of the power of counties to issue bonds in aid of railroads being constructed through the

county. The court held, in an elaborate opinion prepared by Woodward, Justice, that under the Iowa constitution the legislature possesses the power to confer upon counties authority to issue their bonds for a subscription to the stock of a railway running through the county. But unless the legislature does confer such authority, the counties do not possess it. The court further held, per Woodward, Justice (Wright, Chief Justice, dissenting), that it has already been determined in this state that the legislature of Iowa has conferred upon counties authority to subscribe to the stock of a railway company whose road runs through the county subscribing, and that it is not now an open question (citing Dubuque County v. Dubuque and Pacific Railroad Co., 4 Greene, 1 and State ex rel. v. Bissell, 4 Greene, 328). After such decision by the highest court in the state, affirming the power, as well as several legislative recognitions of it, the counties must be held to possess such power. There are several later cases which deny that the counties did possess that power. See Stokes v. The County of Scott, 10 Iowa, 166; State ex rel. v. The County of Wapello, 13 Iowa, 388; Myers v. The County of Johnson, 14 Iowa, 47; McMillen v. Boyles, 14 Iowa, 107; Roch v. Wallace, 14 Iowa, 593; Smith v. Henry County, 15 Iowa, 385; Ten Eyck v. Mayor of City of Keokuk, 15 Iowa, 486. Some years later, and after a change of the personnel of the court, it was held that under our state constitution the legislature cannot empower counties or cities to borrow money upon their bonds to aid in the construction of a railway (McClure v. Owen, 26 Iowa, 243). The counsel appearing for the respective parties in the case under consideration were Cook & Dillon for the appellant, Whitaker & Grant for the appellee. The case was very exhaustively argued on either side and the opinion of the court is very full and reaches its conclusions upon both reason and authority.

It seems not a little strange at this day that one of the

most important and leading cases in the whole juridical history of the state should arise over the small sum of twenty-two dollars and five cents. But a leading case upon the subject of covenants in conveyances of real property, involving not only the various covenants at the common law, but also the construction and effect of a deed under the form prescribed by the Code, came before the court at the June term, 1857, in Funk v. Cresswell (5 Iowa, 62). The attorneys in the case were among the very strongest in the state. They were Browning & Tracy for the appellant, the plaintiff, who recovered a judgment before the justice of peace, which was reversed on writ of error to the district court, and which judgment was, in turn, reversed by the supreme court. Starr & Phelps were for the appellees, defendants. The opinion was prepared by Stockton, Justice. After the filing of the opinion by the court a petition for rehearing, most elaborate, was filed by the unsuccessful party, and on rehearing, Stockton, Justice, delivered a further opinion, and the entire case is full of instruction. The opinion and arguments were alike strong and exhaustive. We cannot give here more of the substance of the opinion, even, than that which bears upon the Code form for deed, which is very highly complimentary to the comprehensive sagacity and wisdom of the authors of the Code. On that point, the court holds that the forms for deeds prescribed by our Code have the stamp of authority; no one is required to use them, but when the form for title in fee simple with warranty is used, the premises are assured to the grantee with every covenant necessary to vest in him a perfect legal title in the largest sense, and every remedy requisite for his indemnity in case of failure of title, or disturbance of possession, whether by liens, incumbrances or otherwise. In short, the case was this: The defendant conveyed to the plaintiff real estate by a deed in the form prescribed by Code "For a deed in fee with warranty," and at the time there were

certain taxes due thereon, and before any steps were taken to enforce the collection of the taxes, the plaintiff paid them and brought this action upon the covenant of warranty in his deed to recover the same, and by the judgment of the supreme court, he did recover.

There was another case (Brandt v. Foster, 5 Iowa, 286) upon the question of covenants in the conveyance of real estate, decided at the December term, 1857, and following the case last above referred to. The opinion in this case was written by the same person, Stockton, Justice, and, taken in connection with that case, the two form a very complete review of the doctrine, and deserve to be considered together.

Among the lawyers rendering efficient service to the state, both as lawyers and soldiers, **Nathaniel A. Merrill** deserves mention. He was a native of New York and there obtained a good education, studied law and was admitted to the bar. He came to Iowa in 1855, locating at DeWitt, then the county seat of Clinton county, and a prosperous town. He had attained mature manhood, and with his limited experience at the bar was enabled to acquire very considerable practice, to which he gave earnest and painstaking attention and grew in the estimation, not only of his clients, but of the people of his county. Like many of the young lawyers coming to Iowa at that period, as soon as practicable after the War of the Rebellion broke out, he entered the military service of the United States and was made captain of Company D in the Twenty-eighth Iowa infantry. He was faithful and gallant in his service, and was severely wounded at the battle of Arkansas Post. After his return from the army, he resumed the practice of his profession and continued to grow therein. He was mayor of DeWitt for one term, and he served two terms in the house of representatives in the general assembly of Iowa and one term in the senate. While in the legislature, he took a very prominent part in the revision of the

Code in 1873. He became one of the leading lawyers of his district and a most substantial and worthy citizen.

Lyman A. Ellis came to Iowa a little later than Mr. Merrill, coming from Vermont, where he received a good academic education and pursued the study of the law. He located at Lyons in Clinton county and began the practice of the law, wherein he evinced much ability and acumen, and his success was such as to attract the attention of the people of his district. He was, in 1865, elected district attorney of the Seventh judicial district, wherein he attained a very high reputation as a prosecutor, so that his constituents were unwilling to allow him to retire from that office, and he continued to serve until 1880, with marked acceptability and great success. He was afterwards elected from his county to the state senate, and served a full term of four years therein. Mr. Ellis was a very close, careful and successful lawyer.

Joseph B. Powers was born in New York, where he obtained a common school and academic education and also studied law. He came to Iowa in 1860 and located at Cedar Falls and engaged in the practice of the law, securing many friends and clients. Shortly after, he was made city attorney for Cedar Falls, and at the expiration of that office, in 1865, he was elected to the house of representatives of the general assembly of Iowa, wherein he served so faithfully and efficiently that he was re-elected, and his legislative ability secured him the prominent position of chairman of the judiciary committee in the house during his last term. He was elected district attorney for the Ninth judicial district, in which he served so well, faithfully and successfully, that he was continued for ten years or more in the same office. Mr. Powers was a very faithful, painstaking lawyer, and attained a high reputation as such.

Samuel Murdock was much older when he came to Iowa than the several lawyers we have last mentioned.

He came from Pennsylvania, where he had acquired a good common school education, and after teaching for some years he turned his attention to the study of the law. He came to Iowa in 1841, and located first at Iowa City. The next year, however, he removed to Garnavillo in Clayton county, where he continued to reside for very many years. Two or three years thereafter he was elected to the territorial legislature and served therein two terms, covering four years, during which time he attained an influential position as legislator. Later, in 1855, he was elected judge of the Tenth judicial district, which included ten counties. His administration of that office was marked by judicial impartiality and with great practical judgment as well as legal learning and integrity. In 1869 he was elected to the house of representatives of the Thirteenth general assembly. Judge Murdock was a pioneer, not only in the state and in the county where he settled, but he was the first lawyer in Clayton county, the first judge of the Tenth judicial district, and he was first in the hearts of the people of his district.

James O. Crosby came to Iowa from New York, where he received a good academic education and pursued the study of the law at Fowler's Law School at Cherry Valley, New York, and was admitted to the bar at the capital of the state in 1849. After practicing law a short time there, he came to Iowa in 1854 and settled in Clayton county, where he has since resided. Mr. Crosby was recognized from the first as a strong man, very deliberate and considerate in his action and in everything connected with his practice. He was for many years among the leaders of the bar in his district, and his practice in the supreme court of the state was quite extensive. He was president of the Iowa State Board, World's Columbian Exposition, and discharged his duties there with efficiency and satisfaction. He has also been president of the Iowa State Bar Association. Mr. Crosby, in later years, has given much

attention to improvements in the law of the country and has exerted much influence in the American Bar Association in its progressive work.

James F. Wilson was a native of Ohio, where he obtained a good common school education, and thereafter learned the trade of harness making. He soon became dissatisfied with that, and entered upon the study of the law at his native town, Newark, where he was admitted to the bar in 1851. Two years later he came to Iowa and located at Fairfield, where he opened an office and entered upon the practice of the law. He was a man of strong will power, fond of study and very attentive to his business. He pursued the practice without any diversion for about three years, and then, in proper line, became a successful candidate for delegate to the state constitutional convention, which met to form a new constitution for the state. Mr. Wilson was one of the youngest members of the convention, and yet he took an active and leading part in the convention and in the formation of the constitution. That constitution was adopted by the people, and with some slight amendments is still the constitution of the state. Mr. Wilson continued the practice as fully as possible, consistent with his official duties. He was elected to the house of representatives of the Seventh general assembly in 1857, and therein was chairman of the committee on ways and means, which fairly indicates the high appreciation in which he was held. In 1860 he was a member of the state senate, and before the period of his term expired he was elected to congress to fill a vacancy caused by the resignation of Samuel R. Curtis. He was reelected three times, and his entire terms in the house covered much of the reconstruction period. The part which he was necessarily compelled to take (for he was chairman of the judiciary committee) was a very prominent one, and for his last two terms he occupied quite as prominent position in congress as any member of it. In the impeach-

W. B. Allison

ment trial of President Andrew Johnson, Mr. Wilson was one of the managers on the part of the house and took an active part therein, although, as chairman of the judiciary committee, he opposed the impeachment proceedings in a most able minority report, in which he gave an exhaustive review of the important cases of impeachment in the British Parliament, as well as in the senate of the United States. He was the author of the joint resolution providing an amendment to the constitution abolishing slavery. In 1882 he was elected to the United States senate for six years, and was afterwards elected as his own successor and served out both terms with marked ability and great profit to the country.

Wm. B. Allison was also a native of Ohio, where he acquired a thorough college education and studied law. He was admitted to the bar in 1852 in Wayne county, Ohio, and began practice in Ashland, and continued there for nearly five years. In 1857 he came to Iowa and located at Dubuque. He entered upon the practice of the law and, being industrious, able and practical, he soon acquired an enviable standing at the bar. He was a partner in the firm of Samuels, Allison & Crane for sometime, and afterwards in the firm of Allison & Crane. The business of these firms was good, and Mr. Allison devoted to such business the same attention as he has all his life given to that which was before him. Like so many of the lawyers coming early to Iowa, the political field had attractions for him, and he entered it, and he has continued therein with a measure of success unparalleled in this or any other country. He was a delegate to the national convention in Chicago in 1860, by which Abraham Lincoln was nominated for President. In 1862 he was elected representative in congress from the third district of Iowa, and was reelected thereto until his service covered four full terms, and until 1871. He was a member of the ways and means committee and rendered efficient service therein, and from

that time to the present has stood high and most influential in financial affairs. He was a candidate for the United States senate in 1870, but was defeated by Judge George G. Wright. In 1872 he was again a candidate, and was elected over Senator Harlan, and took his seat in the senate March 4th, 1873, and has been re-elected continuously since—his service covering a longer period than any other senator in the history of the government; and it may justly, and we believe without question, be said that the importance and value of his legislative services to the government are unsurpassed. It would be a pleasure to continue to follow his career and note his very many important services; but such would be foreign to our purpose in showing forth the jurisprudence of Iowa and those who made it. Senator Allison has always given faithful and industrious attention to his duties, has shown a masterful comprehension and analysis of public affairs, and has contributed through these and his abiding integrity, more to the advancement of the legislative interests of his country than any living man. He stands without a peer by the general consensus of the intelligent American people.

Jonathan P. Dolliver is a native of West Virginia, where he received a thorough college education; he also there began the study of the law. He came to Iowa in 1878, locating at Ft. Dodge, where he was admitted to the bar, and at once entered upon the practice of his profession. He was thoroughly equipped in every way for the practice. By his talent for and acquirements in the line of public speaking, he was quite in advance of those immediately associated with him in the practice. He acquired a fair proportion of the business of his county and district, and attained a reputation at the bar with more promptness and general recognition than is often the case. With these endowments and capabilities, it would have been, of course, quite impossible to keep from the political arena. In 1884 Mr. Dolliver was selected as temporary

chairman of the Republican state convention, and delivered the opening address, which was one of very great merit in itself, and which merit was much accentuated by the very eloquent and attractive manner of its delivery. He gave continued attention to his profession till 1888, when he was nominated and elected to congress from the Tenth district of Iowa. He was continuously re-elected and continued to serve up to the close of 1900, when he was appointed by Governor Shaw to fill a vacancy in the United States senate, resulting from the death of Ex-Governor and Senator John H. Gear. He has now (January, 1907) just been re-elected senator from Iowa for the term to follow. Senator Dolliver has attained prominence and influence in the senate within a more limited time than often occurs. This has come to him by reason of his prior extended service in the house, his enviable reputation as a speaker, and the harmony of his views with the President. During the last congress and this, so far at least, no senator has exerted a more or better influence or attracted more approving attention than Senator Dolliver. As a public speaker he is unsurpassed, and on the rostrum, or before a popular audience anywhere, he possesses the rare capacity of amusing and delighting his audience with humor, while he is enforcing the most serious problems. Some speakers may create as much delight or amusement as he, but it is done by stopping and more or less introducing foreign matter into the address, while Senator Dolliver's addresses bubble over with humor without any digression. With these characteristics, too, he is a most persuasive and impressive speaker.

William Vandever was a native of Maryland, although much of his youth was spent in Philadelphia. He came west in 1835, stopping for a time in Cincinnati and then coming to Rock Island. His early education was very thorough, and when at Rock Island he was engaged in engineering, and for a time in editing the leading news-

paper there. He spent some four years in Davenport, where he was married. In 1851 he removed to Dubuque and, having pursued the study of the law while in Rock Island and at Davenport, he concluded to turn his attention to its practice. He formed a partnership with Ben. M. Samuels, afterwards candidate for governor, and the firm became one of the strong and leading firms of Dubuque. Upon the organization of the supreme court and the election of new judges from a different political party than before, Mr. Vandever was appointed clerk and discharged the duties of that office for about a year, and then, finding it unsatisfactory, resigned and returned to the practice of the law. In 1858 he was elected to congress from the Dubuque district, and served that term, and became a candidate for re-election in 1860. In this canvass he was opposed by his former partner, Ben. M. Samuels. The district was composed of the north half of the state, and he was elected by a large majority. Immediately upon the breaking out of the Civil War, he resigned his seat in Congress and entered the military service as colonel of the Ninth Iowa infantry, which was largely raised by his efforts, and wholly in his district. He was a brave and aggressive soldier and he was promoted the next year, in 1862, after the battle of Pea Ridge and other battles in which he was engaged, to the rank of brigadier-general; and later he was brevetted major-general of volunteers. He served until the close of the war.

Oliver P. Shiras was a native of Pittsburg, Pennsylvania, and was a graduate of the Ohio University, and also of Yale Law School. He came to Dubuque in 1856, and was admitted to the bar in August of that year. Shortly thereafter he became a member of the firm of Bissell, Mills & Shiras, one of the strongest law firms in Dubuque, where there were several very strong firms, exerting a potent influence in the formation and development of our jurisprudence. He continued with this firm for several

O. P. Shiras

years. After the breaking out of the War of the Rebellion and in August, 1862, he volunteered in the military service and was made first lieutenant of the Twenty-seventh Iowa volunteer infantry. He served for a considerable time on the staff of General Frank J. Herron in the Army of the Tennessee, his service being mainly in Missouri, Arkansas and Louisiana. In 1864 he resumed the practice of his profession at Dubuque, forming shortly thereafter the firm of Shiras and VanDuzee, which firm did a large and successful business, and later was joined by David B. Henderson, whose subsequent career was very eminent and successful. Mr. Shiras was recognized, and justly so, as one of the very first lawyers of Dubuque, and his business was large and prosperous. In 1882 he was appointed judge of the United States district court for the northern district of Iowa, and he continued to discharge its duties with great ability and satisfaction. During his service he was often called upon to serve upon the bench of the circuit court of appeals in the Eighth circuit. His judicial career has been one of marked ability and distinction. He retired from active duties shortly after his service and age entitled him to that honor and privilege.

David B. Henderson was a native of Scotland and came to Iowa when a mere boy, where he acquired a thorough education in the common schools and by graduation from the Upper Iowa University. He studied law with Bissell and Shiras at Dubuque, and was admitted to the bar in the fall of 1865, after his return from gallant and extended service as soldier and officer in the civil war. During his service he was wounded, resulting in the loss of his leg, by reason of which he was honorably discharged. Afterwards, in 1864, he re-entered the service as colonel of the Forty-sixth Iowa infantry and led his command until the close of the war. In 1869 he became a member of the firm of Shiras, VanDuzee & Henderson and continued the practice with marked ability and suc-

cess. In 1882 he was elected to represent the Dubuque district in congress, and he rendered very marked and efficient services on several of the leading committees, during the eight successive terms of his re-election. After the brilliant service of Thos. B. Reed as speaker of the house for his successive terms, Colonel Henderson was with great unanimity turned to as being the only man who could maintain the reputation of such a predecessor, and he was accordingly elected speaker and served with great ability and marked approval.

Shepherd Leffler, a native of Pennsylvania, where he received a common school education, which was supplemented with higher education at Steubenville, Ohio, where he also acquired a knowledge of the law, came to Iowa in 1835, locating at what was then known as Flint Hills, in Des Moines county. At first he improved a farm near by, but shortly after began also the practice of the law. He gave all the attention to the law which it was practicable at that time to give it, because of the limited litigation. He had enough, however, to show his unusual talent and capacity for its practice, and he won a high reputation therein, as well as the great confidence of the public in his manhood and integrity. He was elected to the first legislative assembly of the territory, and was re-elected for two successive assemblies thereafter and then was promoted to the legislative council of the territory, in which he served three successive terms, and until the territory became a state. He was a delegate to the first constitutional convention in 1844, and served through its sessions. It will be remembered that this constitution was rejected by the people, almost solely because of the limited boundaries it would give to the state according to the action of congress thereon. He was also a member of the constitutional convention in 1846, which framed the constitution under which Iowa was admitted, and which controlled the state for twelve or more years. He was

elected to congress as representative of the state at large in 1846, and was re-elected from the second congressional district of the state in 1848 and served four years. He was a man of sterling integrity, and by his marked ability and careful regard for the public interests, he wielded an influence in shaping the policy, the laws and the constitution of the state quite equal to any man in its history. He served in six of its territorial legislatures, in two constitutional conventions and four years in congress, and by his prudence and wisdom and abiding fidelity, exerted a potent influence upon the jurisprudence and the history of the territory and state.

James B. Howell was a native of New Jersey. He received his education in the Miami University, Ohio, from which he graduated in 1837, and thereafter he studied law, and was admitted to the bar in 1839. He came to Iowa in 1841 and settled at Keosauqua, where he opened a law office, and continued the practice for five or six years, alone a part of the time, and in partnership with James Hall a part of the time. He was a man of strong mentality and made his impress in whatever circle of society or business he came. In 1846 he, with another, purchased the Des Moines Valley Whig, and from that time on gave most of his time to the management of that paper and the Daily Gate City, which he afterwards acquired, and then moved to Keokuk and continued its publication until his death. He exerted a very large influence, not alone upon the jurisprudence and legislation of the state, but upon its political history, and in this latter particular he was perhaps surpassed by no man that ever lived in the state. In 1870 he was elected by the general assembly of the state to the United States senate to fill the vacancy for the unexpired term of James W. Grimes. He served well and faithfully there, as he did in every position in his life.

W. G. Donnan was born in New York, and received

not only the excellent common school education afforded by the New York schools at that date, but he also received further education at the Cambridge Academy, and later, in 1856, he graduated, after a full course, in Union College. He came to Iowa the same year and studied law and was admitted to the bar here. His practice at the bar was not extended either in its amount or in the period of time covered by it, but during that time he did exert as much influence in his profession as any man in his county. He became recorder and treasurer of Black Hawk county, where he had settled, and where he was admitted to the bar and practiced law, and he held the office for two terms, four years. At that time he volunteered in the Union army and was made lieutenant. He won promotion in the service and became major before the close of the war. After his return from the army and in 1867, he was elected to the state senate and served therein four years, and during his term secured the location and construction of the hospital for the insane at Independence. In 1870 he was nominated and elected representative in congress for the Third district, and was re-elected in 1872, serving two full terms with great fidelity, efficiency and satisfaction. He declined the nomination for a third term. Mr. Donnan was a man of quite more than the average ability, of sterling and well recognized integrity, and of most helpful Christian influence.

L. L. Ainsworth was born in New York, where he acquired a liberal college education, and was admitted to the bar in 1854. The next year he came to Iowa and located at West Union in Fayette county, where he commenced the practice of the law. Mr. Ainsworth was a very energetic, astute and strong lawyer. He attained high rank in his profession and was a leader therein in his district. He was, however, induced to enter the political field, and was elected state senator for the counties

composing his district in 1859 and served the full term of four years with activity and ability. His ready apprehension and bright mind enabled him to impress himself most forcibly upon the senate. In 1862 Mr. Ainsworth raised a company for the Sixth cavalry, of which he was made captain. He rendered faithful service during the war and returned to West Union and resumed his practice. He had no difficulty in regaining that which he had laid down in order to serve his country. Again he was called into the political arena and served one term in the state legislature. Afterwards, in 1874, he was nominated and elected to congress from the Third district, and he served faithfully therein. His election was a very decided personal compliment, since the political majority was from two to three thousand against him. He was not only a bright lawyer and a successful legislator, but he was unusually popular with all whom he met in any of his duties in life.

Matthew M. Trumbull was born in London, England, and came to this country on attaining his majority. He located at first in Virginia, but his outspoken hostility to slavery induced him to believe that he could do better in Iowa. He came and settled in Clarksville, Butler county, in 1853. He studied law here and was admitted to the bar and began practice, which he prosecuted with diligence and gratifying success for a few years, and was then, in 1857, elected to the house of representatives of the Seventh General Assembly. He served his full term with ability and with satisfaction to his constituents. Shortly after his return from the legislature he volunteered his services in the War of the Rebellion, and raised a company, which became a part of the Third Iowa Infantry. In the next year he was promoted to lieutenant-colonel, and in the fall of 1862 he was appointed colonel of the Ninth Cavalry, wherein he served gallantly until the close of the war, and attained the rank of brigadier-

general. He was afterwards, and in 1869, made collector of internal revenue, in which position he served for twelve years. Later he turned his attention to literary work and attained much prominence and popularity therein. Colonel Trumbull was an able man and attained success in every avenue of life's work wherein he engaged, and was most cordial and popular in his social relations.

CHAPTER XVII.

REVIEW OF CASES SHOWING TREND OF THE LAW.

One of the characteristics of the legislation of western states has been what is known as liberality in divorce laws. Iowa was no exception to this general trend. Among the causes specified by its earliest statutes as ground for divorce was where it is made to appear that the parties cannot "live in peace and harmony together, and that their welfare requires a separation." The case of Inskeep v. Inskeep (5 Iowa, 204), involving this clause, was before the supreme court at its June term, 1857. The opinion was prepared by Wright, Chief Justice, and it was held that the statute did not have reference to the temporary peace and happiness of the parties, nor to their temporary welfare, but rather to their permanent peace, happiness and welfare. If the estrangement is temporary, or the peace and happiness have been destroyed by some sudden ebullition of passion, the court should refuse a divorce. It should appear that the parties had in good faith tried to overcome the differences. If it appeared that the plaintiff was at fault, the divorce would be denied. If the parties were mutually at fault, and it appeared that they could not live in peace and happiness together, the divorce would be granted. After the suit was brought,

but before it was finally determined in the supreme court, the statute was repealed, and the court held that such repeal did not affect the right to the divorce.

The case of Blake v. Blake (7 Iowa, 46), was before the court at its December term, 1858, showing the advanced position of the people and legislature in respect of the rights of married women. The opinion in this case was also prepared by Wright, chief justice. The case involved the matter of contract between husband and wife, as well as the adequacy of a consideration. It was adjudged that the law of this state recognizes the right of the wife to hold and control property in her own name; that she may transact business in her own name; that she may have separate property which she may hold exempt from her husband's debts; that her personal property does not vest, as of course, in the husband; that she may make a valid contract which purports to bind herself only; that she may convey her interest in real estate in the same manner as other persons; that she may act as executrix, independent of her husband, and may receive grants or gifts of property from him without the intervention of trustees; that she has the right to receive, and the husband has the power to convey, in their own names directly, he being the grantor, and she being the grantee and receiving the whole estate, legal and equitable; and that, having the power to convey her real estate the same as other persons, she may convey to her husband, and receive from him in consideration thereof, a grant or conveyance of other property.

In another case (Manix v. Maloney, 7 Iowa, 81), at the same term, the question as to the right to use affidavits of jurors in applications for new trials was again presented to the court. It was held, Stockton, Justice, preparing the opinion, that while it was expressly provided by statute (Code of 1851, sec. 1810) that the affidavits of jurors may be taken and used on applications for new trials, yet it

has been held that it is not the design of the statute to compel jurors to disclose upon oath the manner in which they arrived at their verdict. The affidavits of jurors may be admissible to show the misconduct of the jury in the manner of making up their verdict where they would not be allowed for the purpose of impeaching the verdict by showing that the jurors did not assent to it; also that, where a motion for a new trial was based upon the affidavits of two jurors, to the effect that the verdict was the result of an agreement among the jurors, in substance, that each should set down such sum as he thought proper and divide the aggregate by twelve, and that the quotient should be their verdict—that such affidavits were properly receivable to show the manner in which the jury arrived at their verdict, and that the court erred in refusing a new trial.

The writer feels himself quite inclined to reminiscence in respect of the case of Allen v. Newbury, 8 Iowa, 65; construing the Code. In that case the question arose as to the name in which the action should be brought. The party having the legal title was not the owner of the note, but had brought suit upon it. The right of the plaintiff to maintain the action was contested because, by the Code of 1851, sec. 1676, actions are to be prosecuted in the name of the real party in interest. The objection was that the plaintiff was not the real party in interest. The facts were that the action was brought upon four notes, aggregating the sum of five thousand dollars, and it appeared from the records of the case that after the commencement of the action, and before answer, the plaintiff had sold said notes to another, who was authorized to prosecute the suit in the name of the plaintiff, but, for his own benefit and that the plaintiff, was to claim nothing recovered in said action. One of the defences was, as pleaded in the answer, a denial "that plaintiff holds against him any such notes as are described in his petition."

The plaintiff introduced the notes in evidence. The defendant introduced the assignment or transfer of the same, and thereon the defendant asked the court to instruct the jury to return a verdict for the defendant on the ground that the written assignment showed that the suit was not prosecuted in the name of the real party in interest. The court, under this motion, ruled that judgment could not be rendered in the name of the plaintiff, but that he might take leave to amend, by substituting the assignee in his place, and take a continuance of the cause. This the counsel for the plaintiff declined, and the court instructed the jury to find for the defendant. The supreme court, Wright, Chief Justice, writing the opinion, reversed this judgment, stating in the opinion that "civil actions are to be prosecuted in the name of the real party in interest. At law, this means the party having the legal interest." Some years later, and after the personnel of the court had changed, the same question arose in the case of Coningham v. Smith, 16 Iowa, 471. After each judge had read the record, and the four had met at the consultation table, Cole, being then the junior justice, was asked to state his opinion upon the record, which he did by saying, that the case involved the substantial question decided in Allen v. Newbury, and that he, being a believer in the rule of stare decisis, would affirm the judgment, although, as an original question, the decision was erroneous. Dillon, being the next junior justice in order, was asked to state his opinion of the case, which he did by stating, that he believed with Cole, Justice, that the case was erroneously decided, but that he was not willing to adopt Justice Cole's view of the rule of stare decisis, for, in his opinion, if the court had made an error, the sooner it got right the better, and he would vote to reverse. Lowe, being the next to the chief justice, was asked his opinion, to which he replied, addressing himself to the chief justice, "Now, George, you know I never did like that decision in Allen

v. Newbury, and I believe with both Justice Cole and Justice Dillon that the case ought to have been ruled the other way, and I am ready to reverse the judgment." Thereupon Wright, chief justice, said, he believed he could take the case and write an opinion which would reverse the case at bar, and do it without overruling Allen v. Newbury. The judges all concurred that if any judge could do that, the chief justice was the very man to do it, and he was asked to take the case and write the opinion. He did write the opinion, and brought it back for reading to and revision by the consultation board; but, upon the conclusion of the reading, there was an acclaim by the trio that he had made a failure, whereupon he took back the opinion and revised it as it is found in the report. The ruling was followed in several subsequent cases. (See Cottle v. Cole, 20 Iowa, 481; Taylor v. Adair, 22 Iowa, 279; Rice v. Savery, 22 Iowa, 470; Pierson v. Cummings, 28 Iowa, 344.)

A case entitled Morford v. Unger (8 Iowa, 82), involving a constitutional question of great difficulty and of much complexity in solution, was presented to the court at the June term, 1859. The opinion was prepared by Stockton, Justice, and is a vigorous and well-reasoned opinion, wherein more authorities are cited and quoted from than was usual for the author. The question was as to the constitutionality of an act to amend the act incorporating the city of Muscatine, which amendment consisted in extending the boundaries of the city about one mile on the east and about two miles on the north and west. The plaintiff owned a farm in the territory brought into the city by the act, which he used wholly for agricultural purposes, and whereon he lived. The entire farm was about one mile from the old city limits, and about the same distance from any lands laid out into city or town lots or used as city property. The action arose because of a levy by the marshal of the city upon the personal prop-

erty of the plaintiff for taxes amounting to one hundred and three dollars, and for which property the plaintiff brought this action of replevin. The only question in the case was the constitutionality of the act extending the limits of the city.

In the course of the opinion, the court uses this language: "Conceding to the general assembly a wide range of discretion as to the objects of taxation, the kind of property to be made liable, and the extent of territory within which the local tax may operate, there must be some limit to this legislative discretion, which, in the absence of any other criterion, is held to consist in the discrimination to be made between what may reasonably be deemed a just tax, for which a just compensation is provided in the objects to which it is to be devoted, and that which is palpably not a tax, but which, under the form of a tax, is the taking of private property for public use, without just compensation. If there be such a flagrant and palpable departure from equality in the burden imposed; if it be imposed for the benefit of others, and for purposes in which those objecting have no interest, and are, therefore, not bound to contribute, it is no matter in what form the power is exercised; whether in the unequal levy of the tax, or in the regulation of the boundaries of the local government, which results in subjecting the party unjustly to local taxation, it must be regarded as coming within the prohibition of the constitution designed to protect private rights against aggression, however made, and whether under the color of recognized power or not.

"It is urged by the plaintiff that his farm, which is sought to be brought within the jurisdiction of the city, is agricultural land; that it is one mile from the old boundary of the city, and the same distance from any land laid out into city lots, or used or needed for city purposes; that he can derive no benefit from the extension

of the municipal government over him and his property; and the act subjecting him to taxation at the will of the city council, and for its benefit, is an appropriation of his private property for the use of the city, without any compensation or benefit accruing to him in return." The act was held unconstitutional and the judgment, which was for the plaintiff below, was affirmed.

The same holding, in substance, has been had by the courts of Kentucky, California, and one or two other states. The power exercised by the court, however, in such case, is one of great delicacy, not to say of doubt. The legislature being clothed, as conceded by the opinion, with discretionary power as to the objects of taxation, and having exercised that power, it is surely an exercise of a judicial power of a highly delicate nature for the court to interpose its discretionary judgment and thereby control the effect of the action of the legislative department to which the discretion is primarily intrusted by the constitution. It is very difficult, however, to question the soundness of the reasoning of the court in the premises. The exercise of such judicial power seems to be the only means of protecting farmers adjoining municipalities from being made, most unjustly, to bear the expenses of a municipality which can be of no possible benefit or advantage to them.

CHAPTER XVIII.

NOTICES OF ATTORNEYS.

Among the attorneys in that case, not heretofore noticed, was **Jacob S. Richman,** one of the attorneys for the appellee. He was from Ohio, where he received a good education, but he studied law in Illinois before coming to Iowa, in 1839. He was admitted to the bar in

J. Scott Richman

Cedar county, but settled permanently, in 1840, in Bloomington (Muscatine), and shortly thereafter formed a partnership with S. C. Hastings, subsequently one of the judges of the supreme court of the state. Mr. Richman was a very industrious and painstaking lawyer, always preparing his cases with great thoroughness and care, and he attained a high standing at the bar, and enjoyed a very large practice, notwithstanding the numerous very able and distinguished local competitors. He was a member of the convention which framed the constitution under which Iowa was admitted to the Union. He was appointed judge of the district court for his district in the fall of 1863, and served out the vacancy to which he was appointed, and a full term to which he was elected. In 1870 he resigned the judgeship to return to the practice of the law. The same painstaking care and industry characterized Judge Richman on the bench as had marked his professional career at the bar, and his administration of the office of judge was eminently satisfactory. Judge Richman always stood deservedly high as a citizen, a lawyer and a judge.

We have overlooked the mention heretofore of **Phillip P. Bradley,** a native of Connecticut, where he received his primary and academic education, and afterwards graduated at Union College, Schenectady, New York. He also pursued the study of the law in that state, and afterwards, in 1834, located at Galena, Illinois, where he engaged in the practice and was prosecuting attorney there. In 1839 he removed to Iowa and located in Jackson county, where he pursued the practice of the law with diligence and success the remainder of his life, although much of that life was given to politics and office-holding. He was, first, clerk of the district court, and shortly after, in 1845, he was elected to the legislative council of the territory, wherein he served with prominence and efficiency. Mr. Bradley contributed to the nomination and election of the

first governor of the state, Ansel Briggs, and was elected to the first legislature upon the same party ticket as Governor Briggs. He was secretary of the senate of the state for two terms, beginning with 1850. He was also, a member of the Seventh general assembly and again of the Eleventh. His legislative career afforded him an opportunity for the exercise of much influence upon the legislation, as he also exercised in his profession upon the jurisprudence of the state. He served faithfully his district and his state in a long and active career, extending to a ripe old age.

John F. Duncombe was born in Pennsylvania and lived with his father on a farm, getting the fullest benefits of the common school until he was sixteen. He then attended a preparatory academy and afterwards and in due course he graduated at Allegheny College. He studied law also in his native state, and was admitted to the bar there. In 1855 he located at Ft. Dodge, Iowa, and began the practice of the law. Mr. Duncombe was an energetic, industrious and aggressive man. With his liberal culture and thorough knowledge of the law, great readiness of apprehension, fine personnel and rare social qualities, he became a leading member of the bar and a recognized leader in all public matters. He secured a large practice, and was quite more than usually successful. He never neglected or subordinated his practice to other things further than became actually necessary from the giving of his attention to current political and pioneer matters. In 1856 he, with another, established the Ft. Dodge Sentinel, the first paper in that portion of the state, and from his own pen provided it with most vigorous editorials in behalf of the democratic party and its candidates. He was captain of one of the companies composing the relief expedition which went in 1857 to the scene of the Spirit Lake massacre for the protection of the settlers. In 1859 he was elected to the senate from twenty counties, includ-

J. F. Duncombe

ing that of his residence, and served with efficiency and marked ability. He was twice elected to the legislature from his county, although its politics were adverse to his. He was for many years regent of the State University and one of the commissioners of the World's Fair. His party honored him always as delegate to the state and national conventions, wherein he figured conspicuously. No man in the northwest part of Iowa attained greater prominence or accomplished more of good for his locality than did John F. Duncombe. Mr. Duncombe contributed very much toward the early construction of railroads to his home city and to different portions of Northwestern Iowa.

Warren S. Dungan was also a native of Pennsylvania, where he obtained a good common school and thorough academic education. He read law while engaged in teaching in Louisiana, and afterwards in the office of Roberts & Quay, at Beaver, in his native state. He was not admitted to the bar until March, 1856, being then some thirty-four years of age. Shortly after being admitted to the bar, he removed to Iowa and located at Chariton, where he at once opened a law office and early secured a very satisfactory practice. He has given attention to the law during all the time of his residence in Iowa, and has made decided success therein. He obtained early recognition as a substantial citizen and a thoroughly honest man, and has evinced decided ability not only at the bar, but in all of the public positions to which his fellow citizens have called him. In 1861 he was elected to the state senate, but before the close of the first year of his service he volunteered and, entering the military service, was made lieutenant-colonel of the Thirty-Fourth Iowa Infantry, and continued his service during the entire war, serving with acknowledged fidelity and ability. During the last year of his service, he was on the staff of Major General Andrews as inspector general. At the

close of the war he returned to Chariton and resumed his practice. In 1880 he was a member of the Eighteenth general assembly, and was re-elected to the house of representatives of the Nineteenth. Again, in 1887 he was elected to the senate, and served a full term. In 1893 he was elected lieutenant-governor of the state by a very large majority. His long service in the legislature, both house and senate, qualified him peculiarly for the duties of presiding officer, which he discharged with fairness and satisfaction to every senator. Colonel Dungan is an exemplar of abiding fidelity and Christian integrity.

John McKean was another native of the state of Pennsylvania, born some years later than Colonel Dungan. His father removed to Ohio when he was quite young, and there John received his education. Later he attended college, so that his education was quite liberal. He came to Iowa in 1854 and located in Jones county. Later he read law in Anamosa, and was admitted to the bar and began practice there. He was a studious, careful and considerate lawyer, and always had a good legal business. Like most Iowa lawyers at that early date, he entered politics and in 1865 was elected to the house of representatives of the Eleventh general assembly. At the close of his first term he was re-elected for the second term, and after serving two terms in the house, he was promoted to the senate, where he also served two terms, making his continuous legislative service twelve years, four in the house and eight in the senate. He was a faithful, attentive and laborious legislator, giving careful attention to all matters coming before him. He secured the establishment of a second state penitentiary at Anamosa, and rendered efficient service to the interests of the State Agricultural College and the State University. In 1872 he was elected to the bench of the circuit court, where he rendered very faithful, impartial and satisfactory service as judge. A Christian statesman and judge.

W. S. DUNGAN.

Wm. G. Hammond was a native of Rhode Island, where he secured his early education, but afterwards, in 1849, he graduated from Amherst College. He went to New York City and there read law and was admitted to the bar, where he practiced law for some five years. He then went abroad and spent the most of two years at Heidelberg. After his return, and in 1858, he came to Iowa, and was engaged for a year or two each in engineering and in teaching. He then located at Anamosa and resumed the practice of the law there, acquiring his share of the practice at that bar. In 1866 he removed to Des Moines, and the next year he became associated with Judges Wright and Cole in the conducting of the Iowa College of Law, a school established by them there two years before. He discharged the duties of both professor and secretary of the Iowa College of Law with marked fidelity and efficiency. In 1868 the institution was removed to Iowa City and became the law department of the State University—all three of its professors continuing as professors in the new location. Professor Hammond had a fondness for the civil law and for the antiquities of the law generally. He was a most faithful and competent professor and secretary. We expect to say more of him in these respects in our contemplated brief history of the law schools of Iowa. He remained with the law department of the State University until 1881, when he resigned his position and was made dean of the St. Louis Law School, which position he retained until his death. Professor Hammond's studiousness and fondness for the history of the law, his thorough scholarship and always scholarly methods, made him a tower of strength to the department, and also to the school in his new alliance.

Robert G. Reiniger is a native of Ohio, where he received not only a common school education, but also a college course. He also studied law there and was ad-

mitted to the bar, coming to Iowa in 1857, and locating at Charles City, in Floyd county. He entered at once upon the practice of the law, and soon after formed a partnership with his brother in the practice, which he continued with only the interruption consequent upon the public duties he performed. Shortly after the breaking out of the War of the Rebellion he volunteered, and became first lieutenant of the Seventh Iowa Infantry. He participated in many battles, including Belmont, Forts Henry and Donelson, Shiloh, Corinth, Iuka and others, and was promoted to captain in 1862. Upon his return from the war, he resumed the practice of the law and continued therein with success, both as to the amount and the results of his practice. In 1870 he was appointed judge of the Twelfth judicial district and continued to serve by reelection until 1884. The following year he was elected state senator from his district and served in four successive general assemblies or two senatorial terms. By reason of his learning and his varied and extended experiences, he became and was one of the most prominent and influential members of the senate. Judge Reiniger was a man of live conscience and most exemplary life. His influence for good was most marked in every way.

John Porter was a native of Pennsylvania, but received most of his education in Ohio, where he also pursued the study of the law and was admitted to practice, which he followed there for some five or six years. He came to Iowa and settled first at Plymouth, and later, in 1856, he removed to Mason City, where he pursued the practice about two or three years. He continued the practice at Mason City until 1858, when he was elected judge of the district court for that district, which covered a large territory—eleven counties—and wherein the business was so extended as to require almost constant attention. In 1859 he removed to Eldora, and upon the expiration of his service upon the district bench, which was in 1866, he

resumed the practice of the law there. As a judge, Mr. Porter was most faithful, considerate and painstaking, and his administration of the bench during his term was marked with these characteristics. While he was engaged in the practice and after the closing of his term on the bench, he found time to aid very much in the construction of railroads, contributing to the growth and development of his county and vicinity. Judge Porter is entitled to very much of the credit for the railroads through his county.

Wm. J. Moir was a native of Scotland, was educated in Vermont, and studied law in Indiana, where he was admitted to the bar in 1856. Directly thereafter he came to Iowa and settled at Eldora, where he opened a law office and has pursued continuously the practice of the law down to this day. Mr. Moir had no ambition to broaden his practice into the different counties in the district, but was content with doing the business for the citizens of his own county, and he has been kept very busy continuously. Mr. Moir has not only won an enviable reputation as a practitioner of the law, but he has always commanded the confidence and respect of his clients and of his acquaintances. He is a public spirited man, and has devoted much of his time to public affairs within his county and, indeed, outside. He represented his county in the house of representatives of Iowa for two terms, and his service was not only acceptable to his constituents, but profitable to the entire state. The Iowa Reform School was established at Eldora in 1868 at which time Mr. Moir was appointed a member of the board of trustees, and he has served almost continuously thereon for nearly thirty years. He has also been treasurer of the board, and as such has handled very large amounts of money, and always with an accuracy of accounting which was in keeping with his character. Mr. Moir's whole life in his profession, as a citizen, and as a public officer has

been of the highest character, both for ability and integrity.

Henry L. Huff was born in Pennsylvania, educated in Ohio, and studied law in Indiana, where he was admitted to the bar, and he afterwards pursued that study further in Iowa. He settled at first in Iowa City, and he continued the practice there individually and in partnership for several years. Later, he removed to Eldora, where he has continued the practice down to date, with different partners and alone, and always with success. Mr. Huff has one of the best legal minds found in the profession in the state. He is a most faithful, industrious and able practitioner, and has given quite more of his professional attention to the criminal law than most other practitioners. He has attained marked and distinguished success therein, not only in the defense of persons charged with crime, but in the prosecution of others, for the highest crimes under the law. He has been engaged in nearly all the important criminal prosecutions arising in his county since he located there. He was elected to and served in the house of representatives in the Thirteenth general assembly with marked efficiency, and has been prosecuting attorney for his county for three terms, and has served one or more terms as city attorney for his home city. No man at the bar, either in Hardin or any other county of the state, stands more deservedly high as an able, faithful practitioner and a man of sterling integrity, than does Henry L. Huff.

Daniel P. Stubbs was also a native of Ohio, where he obtained his common school and academic education. He afterwards took the regular law course in Asbury University, where he graduated in 1856, and there commenced the practice of the law. He came to Iowa in 1857 and located at Fairfield, where he entered upon the practice of the law with much vigor and success. He continued the practice from that time on with such modifications

of continuity as resulted from his discharge of public duty. In 1863 he was elected to the state senate and served in the Tenth and Eleventh general assemblies. He was active in his legislative duties and, being on the committee on federal relations, was the author of a joint resolution for the abolition of slavery throughout the United States, which was passed in 1864. He was president pro tem. of the senate during the last session of his legislative term. He was afterwards candidate for governor and obtained very much of a reputation by reason of his canvass. Mr. Stubbs was a man of strong mentality as well as of a large physical frame and he was a most impressive speaker.

Geo. R. Struble was born in New York and educated in Ohio, but he studied law in Iowa, and was admitted to the bar in 1856. The year following that he removed from Iowa City, where he had studied law and had been admitted, to Toledo, where he began the practice of his profession. He has spent his entire life from majority in Iowa, and chiefly in the practice of the law, and has attained to an enviable position in his profession. He served several years as circuit judge in the Eighth circuit, and his administration of that office was entirely acceptable. He was in the house of representatives of the Eighteenth general assembly, and at the close of his first term was re-elected for a second. During this second term in the legislature he was made speaker of the house, the duties of which he discharged with ability, promptness and impartiality. Indeed, Judge Struble has always manifested the ability requisite for the duties of any position which he has occupied. A man of sterling integrity, great personal kindliness and cordiality and, of course, intensely popular.

Isaac S. Struble was born in Virginia. After removing to Iowa he attended the State University, and from there entered the army as a volunteer in the Twenty-second

regiment of Iowa Infantry, when he was only eighteen years of age. He was severely wounded in October, 1864. After his return from the army he studied law and was admitted to the bar and began its practice at Le Mars. He was successful as a practitioner, and made an excellent reputation for his earnestness and vigorous discharge of his duties. After attaining considerable prominence at the law, he was, in 1882, nominated for representative in congress from the Eleventh district, to which office he was elected, and afterwards re-elected for three successive terms, so that his service in congress extended over a period of eight years. He was attentive and faithful to the interests of his locality, and thoroughly abreast of the times in connection with the general national affairs. After the conclusion of his terms in congress he returned to the practice at Le Mars, and has continued therein, and has made for himself an enviable reputation.

Horace S. Winslow was a native of Vermont. He was educated in his native state in the common and high schools. He obtained his legal education at the Poughkeepsie Law School, New York, and later in the Ohio State and Union Law Schools, from which he graduated in 1856. After he was admitted to practice he opened an office in Newton and, being possessed of great energy and industry, as well as of very ready apprehensive capacities, he soon built up a most desirable practice, which he maintained during his entire life, although he devoted quite a portion of his time to official duties. First, he was prosecuting attorney for the Sixth judicial district for four years, in which he attained more than the average measure of success. He was a vigorous and able prosecutor. Later, in 1868, he was elected circuit judge of the Second circuit of the Sixth district for four years, but resigned after serving about one year of the time. In 1874 he was elected to the district bench of the Sixth judicial district, and he continued to hold the office for the entire term.

Judge Winslow was possessed of a clear, penetrating and vigorous mind, and he possessed the capacity of perspicuous statement of his cases, quite above the average of lawyers. He was considerate of all with whom he came in contact, and attained quite more than the average popularity. No lawyer or judge exerted more influence upon the jurisprudence and administration of the law in the Sixth district than did Judge Winslow. His able, faithful and acceptable service as prosecutor, as circuit judge, and then as district judge, gave him a prominence attained by but few. Judge Winslow prided himself upon his fine library and the thoroughness with which he took care of his cases. He was, indeed, a most capable and successful jurist.

Jeremiah H. Murphy was born in Massachusetts, and there received a thorough education. Afterwards he removed to Wisconsin, and there attended the Appleton University for about two years, and on coming to Iowa, in 1854, he entered the State University, from which he graduated in 1857. He studied law at Marion, in Linn county, and was there admitted to the bar. After his admission to the bar he removed to Marengo and began his professional career. He remained there about nine years, and then removed to Davenport, where he resided and practiced law. His firm, Martin & Murphy, was in existence for many years, and was one of the most successful law firms in the state. Mr. Murphy was fond of the jurisprudence of criminal law, and devoted the first dozen years or so of his professional career largely to that practice. Later, however, he turned his attention more to commercial law and its kindred practice. Mr. Murphy was a very industrious and studious practitioner, and obtained a most enviable reputation at the bar. His career and success as a lawyer, as well as those of his firm, were not surpassed by any brother in the profession. Mr. Murphy was a fine public speaker, most cordial in his

manner and very universally popular. He died December 11, 1893.

Rush Clark was another native of Pennsylvania who attained most enviable position and reputation as a lawyer. He was a graduate of Jefferson College, and at first studied medicine. He came to Iowa, and in 1853 decided to change his profession and to enter upon the study of the law, which he did at Iowa City, where he had a brother engaged in the practice. Mr. Clark was a man of very marked ability, of very studious habits, and possessed of a mind of most vigorous and comprehensive grasp. He soon secured recognition at the Iowa City bar, which was then one of the strong bars of the state, and he maintained himself and was well recognized as one of the leaders of that strong bar. In 1859 he was elected to the house of representatives of the Eighth general assembly and rendered faithful and efficient service. The state was then in its formative condition (ten years old), and the wisdom and considerateness of Mr. Clark impressed themselves upon the legislation. He was re-elected in 1861 and chosen speaker of the house. His administration of that office was marked by ability, impartiality and satisfaction. Later, in 1875, he was again elected to the house, and the following year was elected to congress. At the close of his first term in congress he was re-elected, but died during the first session of that congress, in 1879. His success at the bar, not only in securing a large business of the best type, but in its able and sagacious disposition, gave him justly the position as one of the leaders of the bar of the state.

James T Lane

CHAPTER XIX.

REVIEW OF CASES AND ATTORNEYS.

At the June term, 1859, of the supreme court, a case entitled Ex parte Samuel Pritz (9 Iowa, 30) arose, involving the constitutional power of the legislature to amend a municipal charter. The legislature provided, by an amendment to the charter of Davenport, for a police judge and other limited amendments. The case arose on writ of habeas corpus issued as an original process by the supreme court. The applicant had been convicted of some minor offence by the police judge acting under the amendment, and the applicant, being committed to custody, sued out this writ. The only question was upon the constitutionality of the amendment. The constitution of 1857 provides: "The general assembly shall not pass local or special laws in the following cases . . . for the incorporation of cities and towns. . . . In all the cases above enumerated, and in all other cases where a general law can be made applicable, all laws shall be general and of uniform operation throughout the state." The court, Wright, chief justice, held that the prohibition extended to the making of any amendment to a charter, as well as making an entire charter, and discharged the applicant. The case has been several times followed.

Among the attorneys appearing for the petitioner, and one whom we have not heretofore noticed, was **James T. Lane,** who was a native of Pennsylvania, where he received a university education, studied law and was admitted to the bar. He came to Iowa in 1854 and located at Davenport, which he made his home from that time to his death. He soon acquired a good practice. Later he formed a partnership with Abner Davison and the firm of

Davison & Lane became one of the leading firms of that city. In 1861 he was elected to the house of representatives of the Ninth general assembly and was prominent among the leading members of that body. He was made chairman of the military committee, which was at that time among the most important standing committees, if not the very most important one, of the house. In 1873 he was United States district attorney for Iowa, serving most ably and successfully in that office for two full terms. Mr. Lane was a strong and aggressive lawyer.

At a later term, during the same year, the case of Stadler v. Parmlee (10 Iowa, 23), involving a technical question, was decided by the court, Woodward, justice, writing the opinion. The case was this: The plaintiff verified his petition and obtained an attachment thereon. The statement of the ground for attachment in the petition was that, "To the best of their knowledge and belief, the defendants had disposed of their property in part, and are about to dispose of it in whole, with intent to defraud their creditors." The verification was by one of the attorneys for the plaintiff, and it averred that the statements contained in the petition were true, "to the best of his knowledge and belief." Counsel for defendant moved to quash the attachment on the ground that the verification of the grounds therefor was not sufficient. The court below overruled the motion. This, on appeal, was assigned as error, and the supreme court reversed the judgment, holding that the verification was insufficient.

The attorneys for the appellant were Cole & Jewett, and for the appellee, Casady & Crocker. These have been noticed, except **Marcellus M. Crocker,** one of appellee's counsel. Mr. Crocker was a native of Indiana, and, when a boy about fourteen, came to Iowa with his father, in 1844. He was of very industrious habits and ready apprehension, and so much surpassed those of his age in acquiring an education that he attracted the atten-

tion and acquaintance of both General A. C. Dodge, then a United States senator, and Shephard Leffler, then a member of congress. These secured for young Crocker the appointment as a cadet in the military academy at West Point. He entered the academy and made satisfactory progress, maintaining himself well in his classes, but by reason of the death of his father he was compelled to return home in the fall of 1849 to look after the affairs of his father's estate. Shortly after, he entered upon the study of the law in the office of Judge Olney. He was admitted to the bar two years thereafter, and began practice at Lancaster, in Keokuk county, and made very satisfactory progress therein. In 1854 he removed to Des Moines, and at first entered into a partnership with D. O. Finch, then a practicing lawyer, under the firm name of Finch & Crocker. They soon became leaders of the bar in Des Moines, and the records show a preponderance of business to be with them, and also their decided success. In 1857 the firm of Finch & Crocker was dissolved and the firm of Casady & Crocker organized. Mr. Crocker gave very close and exclusive attention to the practice of the law and the business of the firm from the time of its formation down to the time of his entering the military service as a volunteer under the first call by President Lincoln for troops in defense of the Union. During the continuance of the firm, J. S. Polk was received into the firm as a member, and the firm then became Casady, Crocker & Polk. As a lawyer, Mr. Crocker ranks with the very first. His mind was not only very ready in apprehension, but was very thorough and searching in its comprehension. He was also very strong in his logic and in his powers of illustration. These, together with his thorough knowledge of human nature and the springs of human action, made him one of the most formidable lawyers, if not the most formidable, at the Des Moines bar, which at that time contained in its roll several who were recog-

nized as among the strongest men in the state. As an advocate Mr. Crocker was not surpassed. His firms always had the leading business at the capital city. He raised Company D of the Second volunteer infantry, and was commissioned as its captain. His military training at West Point gave him a decided advantage, and his promotion was rapid. In October, 1862, he was made colonel of the Thirteenth infantry, and he, later that year, was promoted to brigadier-general. He commanded a brigade in what was known as the Army of the Tennessee. Later he was promoted to major-general, and was placed in command of a division. No man in the army stood higher with General Grant than did General Crocker. His health failed, and his last active service was with Sherman in his march to the sea, although after that he was given a command in New Mexico, where it was supposed the climate might improve his health. He passed away at the age of thirty-five.

In a case decided at the December term, 1860 (Babcock v. Hoey, 11 Iowa, 375), a question concerning the conveyance of a homestead was involved. The opinion of the court was prepared by Baldwin, justice (Lowe, justice, dissenting). It was held that it is not necessary to the validity of a mortgage of property occupied as a homestead, in the execution of which, both the husband and wife concur, to expressly state that the property is a homestead. Griffith & Knight were attorneys for the appellant and Bissell, Mills & Shiras were attorneys for the appellee.

W. J. Knight was one of the firm of the attorneys for the appellant in this action. His partner was Jeffrey M. Griffith, with whom Mr. Knight had studied law. Mr. Knight was a native of Ireland and came with his parents to this country when about fourteen years of age, and with his parents settled in Dubuque. To the education which he had received in his native land there was added at Dubuque, under private tutors, a thorough course of in-

struction which qualified him well for the duties of his life. Mr. Knight was a faithful and industrious student and made rapid proficiency, so that he was able to pass a thorough examination and secure admittance to the bar before he had attained his majority. Shortly after his admission he was taken into partnership by his principal, with whom he had read law, and between whom and himself the most cordial relations existed. The firm of Griffith & Knight became early one of the strong and leading firms of Dubuque, and it secured many of the most important cases from that locality, and their employment in the supreme court was in connection with the most important cases before that court. Mr. Knight is possessed of one of the most acute, discriminating and logical minds at the bar anywhere. His directness in the presentation of his cases is refreshing, and he fully comprehends what is before him, and discusses it with a fullness and yet with a brevity that are delightful. His partner, Mr. Griffith, was possessed of a type of mind which seemed to complement and make complete the mental characteristics of the firm. Their success in business, up to Mr. Griffith's death, as well as Mr. Knight's success since that period (1882), are abundant assurance of the verity of what has been said respecting them. Mr. Knight was one of the commissioners to codify the laws, appointed by the legislature in 1872, and, although the youngest member of the commission, he was one of the most efficient members of it. He was elected a member of the legislature in 1880, and afterwards, in 1885, he was elected to the senate, in each of which bodies his abilities secured for him a prominent and leading position. He is a most faithful and competent man.

CHAPTER XX.

THE NEW COURT, UNDER THE CONSTITUTION OF 1857.

In 1859, pursuant to the new constitution adopted in 1857, there were elected three judges of the supreme court, Ralph P. Lowe of Keokuk, who by drawing the shortest term became chief justice; Caleb Baldwin, of Council Bluffs, who drew the four years' term, and L. D. Stockton, of Burlington, who drew the full term. Judge Stockton was on the bench of the court closing its term with the year 1859.

We have before spoken of **Ralph P. Lowe,** who was a native of Ohio, where he acquired a thorough education and became a graduate of Miama University. He also studied law in Ohio. He came to Iowa in 1840 and located at Bloomington (now Muscatine), where he opened an office and began the practive of the law. He also took an active part in public affairs. No man in the territory was more honored with clients than was Mr. Lowe, and he was recognized as one of the foremost men at the bar in the territory. Judge Lowe's mind was always clear and his expressions perspicuous. His strong love of abstract justice and his inclination against technicalities characterized not only his service on the bench but his practice at the bar. A thorough Christian man, having the mental characteristics heretofore suggested, would, of course, endear himself to all who had business or social relations with him. He was very successful at the bar, not only in acquiring much business, but in its disposition with satisfaction. In 1844 he was elected to the first constitutional convention. In 1852 he was elected judge of the district court of the First district, and continued to discharge the duties of

C. Baldwin

that office until 1857, when he resigned to accept the nomination for governor, to which office he was elected, becoming the first governor under the new constitution. He was nominated and elected as judge of the supreme court at the close of his term as governor, which term as governor was served with marked ability and universal satisfaction. The three judges elected at the same time and on the same ticket, pursuant to the provision of the constitution, determined the length of service of each by lot, and Judge Lowe, drawing the shortest term, became chief justice.

Caleb Baldwin was born in Pennsylvania, where he received both his primary and collegiate education. He graduated from Washington College in 1842 with a very thorough collegiate course. Directly after closing his literary education he turned his attention to the study of the law and, after completing a course therein, removed, in 1846, to Fairfield, Iowa, and there established himself in the practice of the law, and soon secured a living and prosperous business. He was a man of more than average industry, and was thoroughly intent upon attaining the highest excellency in his profession. He was early elected prosecuting attorney, and he served two terms or four years therein with great acceptability. After the close of his service he was appointed judge of the Third judicial district to fill a vacancy caused by the resignation of W. H. Seevers, which office he filled with ability and most manifest impartiality. Indeed, Judge Baldwin's mental constitution peculiarly fitted him for the bench, although his success at the bar had been quite satisfactory. In 1857 he removed to Council Bluffs, and there established himself in the practice, forming a partnership with Samuel Clinton, with whom he had been more or less associated at his former residence. In 1859 when, by a change of the constitution, the judges of the supreme court became elective by the people, he was nominated as one of the

three judges, and was elected. In the designation by lot as to the period of service between the three judges elected, he drew the four years' term. Judge Baldwin was possessed of a strong, comprehensive, judicial mind. He was not given to the exercise of special acumen, or to dwell with any satisfaction upon technicalities. By the breadth of his mind and its judicial constitution he seized hold of the broad merits of the case and disposed of it without indulging in any sympathy or favor to technicalities. He stated the facts of his case, and then proceeded in a plain and practical and yet clear and forcible way to the just and legal conclusion. There was something of similarity in the mental constitution and the treatment of cases by Judge Baldwin and Judge Stockton. A careful reading of their opinions will discover this similarity. Beyond any question of doubt, if Judge Baldwin had desired to continue on the bench of the supreme court, he would have been triumphantly re-elected; but he preferred to retire from that service and to return to the bar, which he did. In 1865 he was appointed United States district attorney for Iowa, and later he was appointed one of the judges of the court of commissioners for the settlement of the Alabama claims, to which latter place he was appointed in 1874. Judge Baldwin was a Christian man, of sterling and undoubted integrity and his services were always acceptable and well approved by the people.

Of **Judge L. D. Stockton,** one of the three judges elected by the people under the new constitution in 1859, we have before spoken in full and need do no more here than to refer to what we have there said. Judge Stockton took his seat with his associates on the new bench in January, 1860, but he served only until June 9th, 1860, when he departed this life.

Geo. G. Wright was appointed by the governor to the vacancy occasioned by the death of Judge Stockton, and he entered upon the duties thereof at once and continued

by virtue of the appointment, and the subsequent election thereto, to fill out Judge Stockton's term. We have heretofore spoken fully of Judge Wright and need do no more here than refer thereto.

In the case of Torbert v. Hayden (11 Iowa, 435), involving the validity of chattel mortgages, decided at the June term, 1861, the court, in an opinion prepared by Lowe, chief justice, decided that a chattel mortgage under which the mortgagor retains the possession and power to dispose of the mortgaged property, is not fraudulent in law. The attorneys in the case were, Willson, Utley & Doud for the appellant and Samuels, Allison & Crane and John L. Harvey for the appellee. Both these firms were among the strong and active legal firms of Dubuque, respecting most of whom we have heretofore spoken. **Mr. George Crane** and **Mr. John L. Harvey** and also **John Doud** were each of them early at the bar of Dubuque, and attained recognition as among the most able and active of that numerous bar. Mr. Crane was afterwards the postmaster for Dubuque, but continued in the practice for many years. Mr. Doud, later, removed to Ft. Dodge, where he continued the practice of the law. Each of the three were most excellent men of sterling character, and useful, not only in their profession, but in every avenue of their employments.

Bradford v. Limpus (13 Iowa, 424), decided at the June term, 1862, involved the duty of a sheriff to make sale of real estate in parcels, and Lowe, justice, who had been re-elected, wrote the opinion. It was decided that when the sheriff sold a tract of land as one parcel, when it was susceptible of sale in several parcels, the sale should be set aside. The statement of the point ruled in this case may be liable to mislead, unless it be stated in the same connection that circumstances rendering the single parcel specially valuable as such, and where a division would impair the value of each parcel, such facts might render the

sale of the entire parcel valid. The counsel for the appellant were Chas. C. Nourse and Lewis Todhunter, and the counsel for the appellee was James E. Williamson.

Chas. C. Nourse is a native of Maryland, where he acquired a very thorough elementary and advanced education. After completing his literary course, he determined to study law and to follow the practice as a profession. Thereupon he entered the law department of Transylvania University, at Lexington, Kentucky, from which he graduated in 1850. He came to Iowa in 1851 and located at Keosauqua, where he opened a law office and commenced the practice of the law. He continued practice there for about seven years, during which time he built up a good business and came to be a good and experienced lawyer. He was surrounded with some of the most able lawyers of the state, and, with him, the Van Buren bar was recognizedly one of the strongest of the state. In 1858 he removed to Des Moines and established himself in the practice of the law there. He at once took rank with the best lawyers at the capital city and he has continued the practice of the law there down to date. He has been associated with different persons as partners, among them W. W. Williamson, J. M. St. John, C. L. Nourse and a part of the time has practiced by himself. Mr. Nourse has a readiness of comprehension, is thoroughly read in the law, and is possessed of one of the most logical and vigorous legal minds in the state, and has always been a successful and leading practitioner. In 1860 he was elected attorney-general of the state, and at the close of his first term he was re-elected for the second, both of which terms he filled with ability and success. In 1865 he was appointed judge of the Fifth judicial district to fill the vacancy occasioned by the death of Judge John H. Gray. After serving about six months upon the bench, he resigned his position and resumed the practice of the law.

It may safely be said that Judge Nourse has contributed his full share towards the wise jurisprudence of Iowa.

Lewis Todhunter is a native of Ohio, where he received a good common school education. He did not enter upon the study of the law until comparatively late in life. After pursuing the study of the law for a considerable time, he was admitted to the bar in Ohio. In 1850 he removed to Indianola, where he located and continued to reside and to practice law the balance of his life. Mr. Todhunter was a man of good practical common sense, was a conscientious Christian man and always advocating and practicing temperance. His practice of the law was always upon the basis of practical judgment and right. He neither laid claim to technical knowledge of the law, nor to success upon any of its technicalities; but was always a fairly successful practitioner, affording to the courts much practical as well as legal aid in the solution of cases. He was, in fact, a successful practitioner during all his career. He was a member of the constitutional convention which framed the constitution of 1857, and was a very valuable and efficient member. He also served the people of his county as auditor, treasurer and prosecuting attorney, and was always faithful and reliable in every position of life. He did well his part in laying the foundations of our jurisprudence.

James E. Williamson came to Iowa and located at Indianola, substantially contemporaneously with Lewis Todhunter, and was a compeer of his for very many years in the practice of the law at Indianola. He was a faithful, industrious and fairly successful practitioner of the law, and contributed much to the development of his town and county and to the enforcement of laws in a practical, sensible and useful way. An honest man, a good citizen and successful lawyer.

Orlando B. Ayres was a native of Ohio, where he was educated in part, and then with his father's family he went

to Wisconsin, and later to Illinois, where he grew to manhood and acquired a good common school education, and attended, for a considerable time, Lombard College. He studied law, also, in Illinois, and was admitted there to the bar at the close of 1863. After practicing for a short time at Kewanee, he removed to Knoxville, Iowa, where he engaged in the practice of the law. Shortly after settling at Knoxville he formed a partnership with W. M. Stone, with whom he practiced for several years, during which time H. C. Curtis was taken into the firm, which then became the firm of Stone, Ayres & Curtis. Sometime later, after W. M. Stone was elected governor, he was associated with James D. Gamble, afterwards and now district judge for that district. Mr. Ayres had a good legal mind, was very industrious and faithful in attention to his cases, and obtained an excellent reputation as a careful and painstaking lawyer. He was elected district judge for that district in 1886 and he served faithfully and well the entire term, but did not seek a re-election, and at the close of his term he removed to Des Moines and resumed the practice of the law in partnership with D. W. Woodin and Will S. Ayres, one of his sons, and continued therein until the close of his active life. The firm of Ayres, Woodin & Ayres was recognized as one of the strong firms of the capital city. Judge Ayres was not only a good, industrious and faithful lawyer, but he was a very competent and successful man and served well his day and generation.

Geo. W. Clark was a native of Indiana, where he received his education, including a thorough course in Wabash College, and also a course in the study of law. In 1856 he removed to Iowa and settled at Indianola, where he engaged in the practice of the law. He soon acquired a reasonable practice and took rank among the first and best of the lawyers of that county. He continued a successful practice until the War of the Rebellion began,

when he was the first man in his county to volunteer. He assisted in raising Company G of the Third Iowa infantry, and was commissioned as first lieutenant in that company. Upon the organization of the third regiment of Iowa infantry he was commissioned quartermaster, and he served therein until September, 1862. He was at that time appointed colonel of the Thirty-fourth Iowa infantry and commanded the regiment in several battles. During the latter part of the war he commanded a brigade. Colonel Clark was a man of marked ability, fine personnel and, being well educated, commanded respect and approval in every position of life.

James S. Clark was also born in Indiana, and was a younger brother of Colonel George W., of whom we have just spoken. He received a common school education in his native state and then came to Iowa and became a college student at Mount Pleasant. Like his brother, he was among the first to enlist, and was a private in Company E of the First Iowa infantry and participated in the Battle of Willson's Creek. Later he was promoted to lieutenant and then to captain of Company C in the Thirty-fifth infantry and was engaged in seventeen battles during his service. On the day that General Lee surrendered, he led his regiment in a charge on the forts of Mobile, Alabama. After the war, he graduated from the law department of the Iowa State University. Later he engaged in the practice of the law at Des Moines and continued that practice for about twenty years. He was, during the most of that time, a member of the firm of Cole, McVey & Clark, and contributed much to the success of that firm and to the volume of business which came to it. He afterwards retired from the firm and turned his attention to insurance, wherein he has made a decided success. Captain Clark was a brave soldier, a thorough student of the law, and his careful attention to the law during his engagements in

it gave to him a recognition as a painstaking and able lawyer, as well as a most estimable man.

A. L. Hager was born in New York, and when a boy came with his father to Iowa, where he received a good common and high school education, and in 1874 entered the law department of the State University, from which he graduated with honor. Directly thereafter, he located at Greenfield, and there engaged in the practice of the law. He was more than ordinarily successful in securing early a competent business, to which he gave most careful, faithful and successful attention. He continued the practice at Greenfield until his removal to Des Moines in the year 1902, where he continues the practice. In 1891 he was elected to the state senate from the counties of Madison and Adair, and after serving as such for two years, he was elected to represent his, the Ninth district, in congress. He served that term and was twice re-elected, serving six years in congress with ability and approval. Mr. Hager has a fine legal mind and a most thorough knowledge of the law, and is one of the most careful and considerate practitioners at the bar.

William P. Wolfe was a native of Ohio, where he received a liberal education and spent several years of his earlier life in teaching. In 1856 he removed to Iowa and located in Cedar county, where he again engaged in teaching for a time. Later he studied law with Rush Clark at Iowa City, and was admitted to the bar there, and later located at Tipton, where he opened an office and continued the practice substantially until his death. In 1863 he was elected to the house of representatives of the Tenth general assembly. In 1864, he entered the military service and became captain of Company I of the Forty-sixth Iowa infantry. After his return from the war, he was elected to the state senate, serving a full term therein. In 1870 he was elected representative in congress to fill a vacancy and was afterwards elected to the state legislature. In the fall

of 1894 he was elected judge of the Eighteenth judicial district and served on the bench till his death, which occurred about two years thereafter. Judge Wolfe was a faithful and most industrious practitioner, and these characteristics gave him success also in the other avenues of public service.

CHAPTER XXI.

NOTICES OF ATTORNEYS CONTINUED.

Benton J. Hall was a native of Ohio, and was the son of the distinguished Judge J. C. Hall of the supreme court of Iowa. He received a thorough common school education, which was supplemented by a course in Miami University in Ohio, and later at Knox College in Illinois. He came with his father to Iowa and remained at Burlington. After a course of study in his father's office, which was most thorough and complete, he was admitted to the bar in 1857. Benton J. Hall had the brightest, strongest and most acute legal mind found at the Iowa bar. He possessed great readiness of apprehension and profound ability as a logician. He attained a standing at the Iowa bar in these respects unsurpassed. His practice was very large and successful. He commanded the attention, respect and confidence of the courts before which he appeared. In 1871 he was elected to the house of representatives of the Fourteenth general assembly and served the full term. Ten years later he was elected to the senate, where he also served one term. In each body he took high rank, and although in the minority party, he wielded a large influence in each. In 1884 he was elected to congress from the First Iowa district and served one term. At the close of his congressional service, which was a successful term for him, he was appointed by President Cleveland commissioner of patents and conducted the affairs

and business of that office with great ability, and he commanded respect for his services not surpassed by any predecessor. His entire life was, indeed, a success in every point of view.

Timothy Brown is a native of New York and his education in the common schools of that state was supplemented by two years of academic instruction. He also read law in New York, where, under the statutes, the course of reading was made very extended. He came to Iowa in 1855, stopping for a short time at Toledo, but making his location shortly thereafter at Marshalltown, where he entered upon the practice of the law, and by his studious habits and persevering persistence he not only built up a good practice at the bar, but made himself one of the best lawyers in his county or judicial district. He had some personal peculiarities which might have embarrassed others, but to him they became elements of strength, and his entire career as a lawyer has been a continuous success. He has not allowed himself to be drawn into politics or any collateral business except that, in the later years of his life, he turned his attention to legal authorship and produced a well approved standard work on "Jurisdiction of Courts." It has already passed two editions and is a recognized authority. Mr. Brown is a very clean lawyer and a pure exemplary man.

Barlow Granger was a native of New York, where he received a good common school education and further supplemented this education, by not only learning the trade of a printer, but by contributing much in the way of writing for the papers whereon he afterwards worked. His experience in newspaper work was quite extended, embracing, among others, the Charleston Courier of South Carolina, The Albany Argus, New York, and the St. Louis Republican. While at Albany, New York, he studied law. He came to Iowa in 1848 and began the practice of law in Des Moines, and attained prominence in his early prac-

tice. His fondness for newspaper work led him into the first Des Moines newspaper enterprise, which he published and called the Iowa Star. He continued, however, his practice of the law, and in 1854 was elected prosecuting attorney, the duties of which office he discharged with acceptability. The next year he was elected county judge, and was afterwards mayor of Des Moines. Mr. Granger was a man of strong native sense, having a very active mind and possessed at least the average measure of logical power. He was essentially a pioneer, and always ready to turn his attention to what would promote the interests of his neighbors and the locality generally. While he continued to reside in Des Moines and to give attention to the law, yet later in life he retired to his farm, where he exerted a potent influence upon all public affairs. He was a man of decided ability, and was very much beloved by all his neighbors. He lived to the ripe age of ninety years.

Thomas F. Withrow was a native of West Virginia, but went from thence when a boy, with his father, to the state of Ohio, where he received a good education, which was broadened by editorial work on different newspapers in Ohio and Wisconsin. He also studied law in the latter-named state and had a thorough course of reading therein. In 1856 he removed to Iowa, locating at Ft. Madison, where he further pursued the study of the law, and he was admitted to the bar in 1857, in the latter part of which year he removed to Des Moines. He entered upon the practice of law in Des Moines, which was not very extensive for the next two years, for he was made, by Governor Lowe, his private secretary in January, 1858, and gave very satisfactory and efficient services in that position. He maintained his law office in Des Moines continuously, and did more or less practice. At the close of his services as private secretary to Governor Lowe he gave more attention to the law and built up a good prac-

tice. He was appointed reporter for the supreme court in 1860, and published thirteen volumes. He was a most faithful, competent and excellent reporter. During his practice he organized the firm of Withrow, Gatch and Wright, which was continued for several years, and until he left Des Moines, which he did in 1873, when he was appointed general solicitor for the Chicago, Rock Island & Pacific Railroad company, and moved to Chicago and made it his permanent home. Mr. Withrow was a man of broad and vigorous mind, very systematic and methodical, and was one of the strongest lawyers in the state. His influence upon the jurisprudence of the state was both potent and excellent.

John A. Kasson was a native of Vermont, where he received a thorough and liberal education, graduating from the State University in 1842, after which he pursued the study of the law in his native state, giving some time to teaching. In 1851 he went to St. Louis and entered upon the practice of the law in that city, wherein he was successful. After practicing about six years there, he removed to Des Moines, late in 1857. On opening a law office at Des Moines he at once secured a good business, and during his stay continued such business. In March, 1861, he was made, by President Lincoln, first assistant postmaster-general, and removed to Washington to discharge the duties of that office, although he maintained a home in Des Moines continuously until very recent years. In 1863 he was elected to congress to represent the Capital city district. He was afterwards re-elected, and in the aggregate served six terms, intermitting one or two terms. He was afterwards elected to the house of representatives of the general assembly of the state. He was a most faithful, industrious and efficient representative, alike in congress and in the state legislature. He was, after his congressional service, made minister to Austria-Hungary and Germany and was also chairman of the United States

commission at the Samoan Conference in Berlin in 1889. As a practitioner of the law, Mr. Kasson evinced the most marked ability, and discovered therein his knowledge of philology, which afterwards gave him such distinguished prominence as a diplomat. He has most assuredly left his impress, not only upon the jurisprudence of the state, but upon the history, legislation and diplomacy of the nation.

In the case of Thorn v. Thorn (14 Iowa, 49), decided at the December term, 1862, involving the question of homestead, the supreme court took a very liberal view of our statute. In an opinion prepared by Lowe, Justice, it was decided that a tenant in common may claim and own a homestead in his interest in the undivided premises. The counsel engaged in this case have been heretofore noticed.

In the case of Stadler v. Parmlee (14 Iowa, 175), decided at the same term, there was involved a question respecting the liability of a garnishee, wherein the opinion was also prepared by Lowe, Justice. The garnishee in his answer stated that he purchased of the defendants "a lot of wheat at the price of five hundred dollars, for which he was to pay in merchandise or trade, at his store in Warren county, as the same might be demanded" and that "he gave his due-bill accordingly, which was assignable." The court below rendered judgment against the garnishee for five hundred dollars. On appeal, the supreme court held that the court below erred in rendering an unconditional judgment; that the judgment should have been for the amount named, dischargeable in goods or merchandise at a fair value, to be placed by the garnishee at the disposal of the sheriff; in default of which placing by the garnishee, the judgment should, on motion, be made absolute and be enforced by general execution. The attorneys in the case were C. C. Cole for the appellant and Casady & Polk for the appellee.

In still another case (Sternburg v. Callanan, 14 Iowa,

251) involving the question of the liability of an incoming partner, decided at the same term, the opinion was prepared by Baldwin, Chief Justice, by which it was decided by the court that, in order to render an incoming partner liable on an old debt of the firm of which he has become a member, there must be a novation of the debt; that is, a new promise made by the entire new firm upon a valid consideration therefor, in order to discharge the old firm from their liability to the creditor. The character of the old debt must be changed or absorbed by the new promise. This new promise must not only be complete, so that the remedy thereon is effectual, but the old debt must be released or merged in the new one. The attorneys in the case were James Callanan, for appellant; C. C. Cole for Stevens, the principal in the old firm, and Brown & Sibley for the appellee.

James Callanan was a native of Albany county, New York. He was educated in the common schools, and also he acquired a good academic education. He studied law and was admitted to the bar in 1845, and at once entered upon the practice at Albany. He continued the practice there successfully, doing a good business, until 1863, when he removed to Des Moines, Iowa, where he continued to reside until his death. He was a well read and well grounded lawyer, and gave the very closest attention to his cases, and was possessed of a closely discriminating mind. He did not practice law in Des Moines except in cases wherein he was personally interested, as in the case last cited. He engaged in business here and accumulated a large fortune. He was a most excellent man, exemplary in every respect, and liberal to all public enterprises, and was held in very high esteem by all his acquaintances. He accomplished much in life, not only for himself, but for the public, and especially the immediate community wherein he lived.

The firm of Brown & Sibley was composed of **T. E.**

T. E. BROWN.

Brown, a native of New York, and **Stephen Sibley.** Mr. Brown came to Des Moines in 1856, and at once entered upon the practice of the law, his first partner being **James M. Elwood,** with whom he continued for many years. This firm did a very considerable business and was ranked among the best in the city. Mr. Elwood was also a native of New York, where he practiced law some years before coming to Iowa, and he was recognized in Iowa as a very well read and close lawyer. Mr. Brown, about 1864 or 1865, retired from the practice of the law and gave his attention to business and made a very decided success in his business, making himself a millionaire before his death. He was a very bright man and astute lawyer, and for the preparation of a case for trial was not surpassed by any member of the Des Moines bar. Stephen Sibley came to Des Moines later than Mr. Brown and engaged in the practice as an individual for a considerable time, doing a fair business and being recognized as a very competent lawyer and a most excellent man. He died before attaining middle life.

The case of Shepherd v. Brenton (15 Iowa, 84), involving the power of the trial judge to grant a new trial upon newly discovered evidence, was decided at the June term, 1863, by an opinion prepared by Wright, Justice. The holding of the court was, that when a new trial is granted to enable a party to obtain testimony, which is impeaching or cumulative merely, or to introduce evidence to obtain which no proper diligence had been used, or upon affidavits of jurors showing that they never consented to the verdict, the court does not merely exercise a discretion, but commits a legal error, and its ruling will be reversed by the appellate court without hesitation. The attorneys in the case were C. C. Cole for the appellant, D. O. Finch and Wm. Phillips for the appellee.

CHAPTER XXII.

NOTICES OF ATTORNEYS CONTINUED.

Wm. Phillips was a native of Ohio, where he acquired a good common school education and a course in the college at Steubenville. He studied law in Ohio, and removing to Illinois he continued the study there, and was admitted to the bar of that state in 1852. He moved to Iowa and settled, first at Jefferson in Greene county, and later, in 1854, he removed and settled permanently at Des Moines, where he entered upon the practice of the law, and for substantially fifty years continued its practice, always with success. He was the leading member of several firms in succession and, whether alone or in partnership, always had a good business. He was county judge of Greene county, where he also practiced law before moving to Des Moines. Judge Phillips was a most industrious, careful and considerate lawyer. No attorney at the bar gave better or more uniform attention to his cases than did Judge Phillips. Among the later of his partners were Colonel Gatch, Colonel Goode, Judge Day and Judge Ryan. Judge Phillips was not only a good, careful and industrious lawyer, but he was a most exemplary citizen and man. His influence was always on the right side. His brother, **J. H. Phillips,** read law with the Judge and was his partner for many years, giving attention to the business interests of the firm and to its collections. His characteristics of industry and close attention to his cases as well as his exemplary character as a citizen were very much like his brother.

C. H. Gatch was a native of Ohio, where he obtained a good common school education, and he afterwards graduated at Augusta college, Kentucky. He studied law in

Ohio, and was there admitted to the bar, where he practiced for many years, during which time he was prosecuting attorney, and also a member of the senate in that state. He entered the military service, also in Ohio, and raised there a company of which he was made captain, his company being a member of the Thirty-third Ohio Infantry, of which he became lieutenant-colonel. He removed to Iowa in 1866 and entered the practice of the law. He was a member of several law firms in succession, in all of which his business was good. Colonel Gatch as well as his partners ranked among the leaders of the bar. In 1885 he was elected to the senate in Iowa and served two terms, wherein he made himself both prominent and efficient. Colonel Gatch was a man of energy and aggressiveness, was a good lawyer and legislator, and a most exemplary citizen. His influence upon the jurisprudence of Iowa was most extended and helpful.

Hiram Y. Smith was also a native of Ohio, where he received a liberal education. He afterwards graduated from the law school at Albany, New York. He was admitted to the bar in Iowa and began the practice at Des Moines in 1866. He was prosecuting attorney for the Capital district, and served four years therein most efficiently. In 1881 he was elected to the state senate, and he served a full term with marked distinction. Later, he was elected to congress from the Capital or Seventh district to fill out an unexpired term. Mr. Smith was a most industrious, careful and energetic lawyer. He gave very close and careful attention to his cases and was regarded as at the very head of the attorneys in matters of collection. He was a most upright, faithful and competent lawyer and exemplary citizen.

J. K. Macomber was a native of Massachusetts, but came with his father to Iowa while quite young. He has a most thorough literary education, having graduated at Iowa State College at Ames and having had a post-gradu-

ate course at Cornell University, New York, and at Massachusetts Institute of Technology. He studied law and was admitted to the bar, locating at Des Moines, where he has maintained a good practice and enviable reputation. He has served as prosecuting attorney for Polk county, and also as city solicitor for Des Moines. Mr. Macomber is a most thorough and industrious lawyer, and is noted for his careful and exhaustive consideration of his cases and his strong method of presenting them to the court. He has been engaged in many important cases, and has maintained himself well in them.

Calvin P. Holmes was a native of New York and, when quite young, moved, with his father to Ohio, where he was educated in part, having had the benefit of the common schools for a time in New York. Later he came to Iowa, where he completed his education in the academy at Moquoketa, where he entered upon the study of the law. He was admitted in 1857 and located in the practice at Anamosa, where he continued the practice for a few years and then removed to Des Moines, where he served four years as deputy state treasurer. In 1868 he resumed the practice of the law in Des Moines, and continued therein until he was elected judge of the district court for the Capital district, and he continued on the bench until his death. Judge Holmes laid no claim to brilliancy nor to eloquence, but he was a most faithful, industrious and painstaking lawyer and judge. His administration of the bench was entirely acceptable and unquestioned. He was re-elected, and literally wore his life out in the service of the public,—an exemplary man, and industrious, careful lawyer and an upright and considerate judge.

Wm. F. Conrad was a native of New York, where he obtained a thorough education, and he graduated from the Wesleyan University in the class of 1853. He taught school for two years, during which time he studied law and was admitted to the bar, and he located in Burlington

in 1855. He continued the practice of his profession there until he entered the volunteer service in August, 1862, during which time he had won an enviable reputation as a young, but energetic and vigorous, practitioner. He enlisted in Company G, Twenty-fifth Iowa Infantry and was soon made sergeant-major, in which position he continued until he was made first lieutenant of Company K of the same regiment. He was shortly thereafter elected captain of the company, and he discharged the duties of that rank till he was taken prisoner in 1863 and conveyed to Libby prison, where he was confined about one year. He was not only a faithful, but a brave and competent, soldier. At the close of the war, in 1865, he engaged in the practice of the law at Canton, Missouri, where he remained for a little more than ten years, and then removed to Des Moines, Iowa, where he continued in a fair and satisfactory and a recognized successful practice of the law until 1886, when he was elected to the bench. His services as judge were so satisfactory that he was three times re-elected, making his service extend to nearly sixteen years. Judge Conrad laid no claim to brilliancy nor to great profundity, but he was pre-eminently a practical man, which, together with his care and consideration and always judicial bearing, made him one of the most satisfactory judges. He continued on the bench with a recognition of the highest integrity and always with much credit to himself. He was a most exemplary and kind man.

James B. Weaver, who should have had earlier mention herein, was a native of Ohio. He removed with his father, when quite young, to Michigan, remaining there a few years, and then removed to Bloomfield, Iowa, where he arrived on the first day the white settlers were allowed upon what had been before the Sac and Fox Indian reservation. His industry and fondness for study enabled him, during his other employments, which were that of clerking in a store a part of the time, and manual labor at others, to

acquire a good elementary education. At an early period of his life, he determined to pursue the study of the law, and finally succeeded in becoming a student at law in the Cincinnati Law School, from which he graduated with the degree of LL. B., after a full course, in 1854. At once he opened a law office at Bloomfield and entered the practice of the law, wherein he early evinced a capacity and adaptedness which assured his success. He continued a very successful practice until in April, 1861, when, at the first call of President Lincoln for troops, he enlisted as a private in Company G, expecting to enter the First regiment, but, being too late, his company was placed in the Second Iowa. He was at once elected first-lieutenant of the company and served as such through the battles of Donelson, Shiloh and Corinth, when he was made major and, by the unfortunate death in battle of his colonel (Baker) and his lieutenant-colonel (Mills), he was left in command of the regiment during most of the battle of Corinth, and he proved himself fully equal to the emergency. He was made colonel of the regiment, and led it until the expiration of his term of service, never missing a march, a skirmish or a battle. He commanded a brigade at the battle of Resaca, Georgia. After the close of the war he resumed the practice of the law and was, in 1866, elected district attorney of the Second judicial district, and served therein four years with very marked ability. General Weaver, as a lawyer, was recognized as very strong in every department of the practice, but was given special pre-eminence in the discussion of constitutional questions. His breadth and power with the court and with the jury were forcibly buttressed with his recognized character as a pure, just and most exemplary man. He has served four terms in congress, and has twice been a candidate for president of the United States. In his last race, in 1892, he received between one and two millions of the votes of the people of the country, and twenty-

two votes in the electoral college. Iowa does not lay claim to any man more pure, able or just than James B. Weaver.

Wm. M. Stone was born in New York, but, when quite young, removed with his parents to Ohio, where he obtained a good education, by the use of the brief times, as occasion afforded in the midst of his almost constant labors, in storing his mind with knowledge from such books as came within his reach. His employment during youth was of the manual labor type, including therein the driving of horses on the canal and in making chairs. During these studies and labors, sandwiched as they were, he early imbibed the idea that he would make a lawyer of himself, and as far as practicable he shaped his reading to that end. At twenty-one he began to study law systematically as best he could, and after three years' study he was admitted to the bar. In 1854 he removed to Iowa and located at Knoxville and began the practice of the law, and, as a partial means of subsistence, devoted some time to the editorial charge and work of the Knoxville Journal. He continued the practice of the law during his entire life, subject to such interruptions as came from the discharge of official positions to which he was elected, and the military service which he rendered. In 1857, after he had been engaged in the practice for only about three years, he was elected judge of the Eleventh judicial district, embracing the Capital county of the state. He discharged the duties of that office with great acceptability. His great readiness of apprehension and the rapidity of his mental operations, together with his natural practical talent, which had been much aided by his experiences in life, enabled him to take a comprehensive practical and legal view of the cases presented to him. He was always prompt in his decisions, and never delayed causes because of the tardiness of mental operations or the disposition to indolence or from any cause. The business of his court

was always abreast of the demands of the bar. When the Civil War broke out, he raised a company for the Third Infantry, and was commissioned major of the regiment. He was in the battle of Shiloh, and was there taken prisoner and consigned to one of the rebel prisons in the South. It was through his instrumentality, largely, that the government made its first exchange of prisoners with the army in rebellion. In 1863 he was nominated for Governor, and he was elected by an overwhelming majority. He was afterwards re-elected for a second term, and he served both with marked ability and to the best interests and satisfaction of the people. The state papers of Governor Stone will rank well along with like papers from other governors of the state. In 1888 he was one of the presidential electors, and was at one time commissioner of the United States land office at Washington. In every position in life, Governor Stone discharged well his duty. By his services at the bar, on the bench and in the gubernatorial chair, he has made his mark upon and profitable to the jurisprudence of the State.

John S. Townsend was a native of Kentucky, but when quite young moved, with his father's family, to Indiana, where he spent his boyhood and acquired a good elementary education, which was materially supplemented and advanced by his service to his brother, who was clerk of the court of Putnam county, wherein the subject of our narrative rendered continuous and valuable service and acquired his love for the profession of the law. He studied law in connection with his service as deputy clerk and was admitted to the bar. In 1850, he moved to Iowa and located first at Chariton, but the next year he moved to Albia, where he permanently located in the practice of the law. His study of the law was under such circumstances and surroundings as gave to his acquired knowledge thereof a practical turn, which very much aided him in the early securing of practice. At the fall election of

T. B. Perry

the year he moved to Albia he was chosen prosecuting attorney for his county, and he served most faithfully and efficiently therein. The next year he was elected to the house of the Fourth general assembly, and therein gained marked recognition for his practical judgment and quiet and effective attention to business. The next year he was elected judge of the district court of what was then the Ninth district, and at the close of his term he was re-elected. By the new constitution adopted in 1857, the judicial districts were changed, and Judge Townsend was elected thereunder judge of the Seventh judicial district, in which he served a full term, making his continuous services on the bench, although in two districts and under two constitutions, of substantially ten years. Upon his retirement from the bench he returned to the practice and became a member of the firm of Perry and Townsend, which firm continued for substantially twenty years, during which time it was the leading firm of his county and one of the strongest in the district. The extended practice of the firm became an assurance of its high standing, ability and success. Judge Townsend's standing as a man was most enviable, and gave to him, together with the dignity of his positions and long practice, a most potent influence in the community, which was always exercised for good. He well deserves to be classed among those who contributed largely and wisely to the jurisprudence of his state.

CHAPTER XXIII.

NOTICES OF ATTORNEYS CONTINUED.

Theodore B. Perry was born in Cincinnati, where he spent his boyhood and acquired a thorough elementary education. When about eighteen, he moved, with his father's family, to Burlington, Iowa, and, beginning with

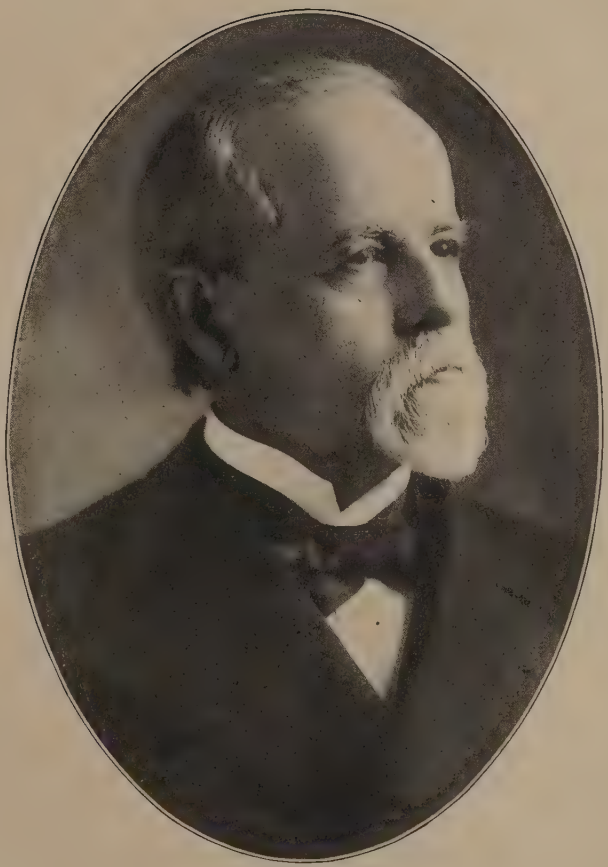
1851, taught school for several years, wherein he attained a most enviable reputation. In 1853 he located at Albia, and there studied law under the direction of Judge John S. Townsend. He was a close, thorough and faithful student of the law, and acquired a knowledge thereof during his study quite equal to the best. The following year he was admitted to the bar, and he has continued the practice without intermission down to date. He was, for the first twenty years of his practice, the partner of Judge Townsend, the firm being Perry and Townsend. Directly after being admitted to the bar he was elected prosecuting attorney for his county, and by his close attention to its duties, his studious habits and persistence, he made a decided success therein. Under the constitution of 1857 there was created a board of education, clothed with exclusive authority over legislation respecting schools, the power being reserved after the testing by experience the wisdom of thus dividing the legislative authority, to abolish such board. At the first election under the constitution, Mr. Perry was elected a member of that legislative board of education for the second judicial district, and he served therein with great efficiency, being greatly advantaged therein by his practical experience with schools, both as scholar and teacher. Mr. Perry was elected to the senate of his state in 1891, and he manifested much activity and always studious investigation of the important questions before that body. Both as a legislator and a lawyer, Mr. Perry always manifested a broadmindedness, as well as clear apprehension respecting the matters before him. His characteristics as a lawyer were a thorough knowledge of the facts of his case, and the law applicable to them, and a persistent and continuous study of them until he had a complete comprehension of the principles underlying. His presentation of his cases to the court was always perspicuous and forceful. His high character and exemplary life for a period in excess of fifty years have

given to Mr. Perry an influence for good in his community seldom equalled and never surpassed.

Wm. P. Hepburn was born in Ohio, but when a mere boy removed with his father's family to Johnson county, Iowa, where he acquired a good elementary education, which was supplemented and broadened by his learning the printer's trade and continuing four years therein. He then turned his attention to the study of the law with Hon. Wm. Penn Clarke, who was reporter for the supreme court of Iowa, and he supplemented the same with further study in the office of a Chicago firm, having a large practice. He was admitted to the bar in 1854, and located at Marshalltown. He continued the practice of the law with the full measure of average success until the breaking out of the War of the Rebellion, when he volunteered and served in the Second regiment of Iowa Cavalry. By his gallantry, bravery and fidelity, his elevation in rank from private to captain, major and lieutenant-colonel followed in rapid and merited succession. At the close of his military service he located at Memphis, Tennessee, but remained there only one or two years, and then settled at Clarinda, Iowa, in 1867, where he has since made his home and carried on his law practice. As a lawyer, Mr. Hepburn stood second to no one in his district, either in ability or as a trial lawyer. Indeed, his power with courts and with juries is almost invincible. His powers of logic are very clear and close, and his powers of induction irresistible. Mr. Hepburn, however, has given most of his attention for the last two decades or more to public life. He was a delegate to the Chicago convention that nominated Abraham Lincoln for president. In 1876 he was an elector at large from Iowa, and he has served as delegate and elector at other presidential conventions and elections. He was first elected to congress for the Forty-seventh, and was re-elected for the three successive congresses, and then, omitting the Fiftieth, Fifty-first and Fifty-second con-

gresses, he has been in congress continuously to date, and, for the last decade or more, no man in congress has exerted more influence upon the national legislation than Mr. Hepburn. As a debater on the floor of congress, he is second to none.

John F. Lacey was born in West Virginia, and he came with his father to Oskaloosa when a small boy. He was given a thorough elementary education, and he enlisted in the Third Iowa Infantry when about twenty years of age. He was captured at the battle of Blue Mill early in his experience, and later was released on parole. Upon his return home, he began the study of the law, but in 1862, being released from his parole by an exchange of prisoners, he at once re-enlisted as private in Company D, Thirty-third Iowa, of which Colonel Samuel A. Rice was the commanding officer. Mr. Lacey became adjutant-general of volunteers, and was frequently promoted, and was engaged in some twelve battles, in one of which he was wounded. He was admitted to the bar in 1865 and at once entered the practice, which early became extensive, both in the state and federal courts. Mr. Lacey was a man of untiring industry, of close application and great persistence, and he made himself felt wherever he practiced. He has given more continued attention to the practice of the law than would be deemed possible in connection with his other public and congressional duties. He prepared a very extended railway digest, and also an Iowa digest, which have become recognized as standard legal works. He was a member of the Iowa legislature in 1870, where his ability and characteristic industry impressed themselves upon the legislation. He was elected to the Fifty-first congress from the Sixth Iowa district, and was afterwards re-elected to the Fifty-third, and continuously down to date, making his congressional service very extended. His ability and industry have been continuously



JOHN F. LACEY.

Thos. Updegraff

manifested, and no member of the Iowa delegation has been more efficient or prominent.

Thomas Updegraff was born in Pennsylvania, where he received a good common school and academic education. He removed to Clayton county, Iowa, in 1856, where he was first appointed clerk of the district court, which office he held for four years, during which time he pursued the study of the law, and he was admitted to practice and located in McGregor in 1861. His practice was excellent from the first, being much aided in the ordinary details by his experience with the district court clerk's office and the sessions of court, to which he gave the closest attention. Mr. Updegraff is a very bright, active and aggressive man, and these characteristics have exhibited themselves in his entire practice, wherein he has been quite more successful than the average lawyer. He was elected to the house of representatives of the Seventeenth general assembly, and the next year was elected to congress from the Fourth district. He was re-elected at the close of his first term and, after vacation, was, in 1892, again elected, and was honored with two successive re-elections. Mr. Updegraff's activity and ability which were manifested in his congressional service, enabled him to accomplish very much and to be of most extended service to his district, state and the nation. He was always at work in such lines as assured usefulness.

John A. T. Hull was born in Ohio, and removed with his father and family to Iowa when a mere boy, and located in Van Buren county. Mr. Hull received a thorough common school education and then graduated at the Mt. Pleasant Wesleyan College, and thereafter from the Cincinnati Law School in 1862. Before this the family had removed to Des Moines, where the father, A. Y. Hull, resided, who was first educated as a physician and afterwards as a lawyer and engaged in the practice of the law, but from which he had more or less retired. On his return

to Des Moines after completing his law school course, he entered the office of C. C. Cole, where he further pursued the study of the law and began to embark in practice, when he enlisted in the Union army and became first-lieutenant of Company C, Twenty-third Iowa Infantry. He was, early in the fall of that year, promoted to captain. In the spring of 1863 Captain Hull was wounded in the battle of Black River Bridge, and by reason of that wound and its conditions, he resigned in October of the same year and went to Bloomfield, in Davis county, where he conducted a live and aggressive newspaper. Captain Hull has served in many offices in connection with the state government, whereby he has made his impress upon the jurisprudence and legislation of the state; but his crowning service has been as a member of congress for the Seventh or Capital district of the state, to which he was first elected in 1892, and he has been re-elected continuously thereto ever since. When he entered congress, he was made a member of the committee on military affairs, of which he became chairman shortly after, and, by reason of his ability and devoted and persevering attention to business before him, he became and has been, since 1896, one of the most influential members of congress. During the war with Spain and the Philippine Islands, his committee was charged with the most responsible duties, and Captain Hull gave continuous and devoted attention thereto, and he has shown himself to be a most masterful man for the position. Captain Hull is not only a man of very unusual and most marked ability, but he has shown himself to be a thorough master of the affairs committed to his charge. He is a clean man in his life, and of most sterling and unquestioned integrity.

CHAPTER XXIV.

CHANGES OF JUDGES; BALDWIN RETIRING, DILLON ASCENDING; COLE, ALSO OF THE LAW SCHOOL.

The last two or three cases cited and discussed were decided at the December term, 1863, of the supreme court and the prior cited cases had been decided at prior terms. The close of that December term, 1863, closed the services of Chief Justice Caleb Baldwin on the bench of the supreme court, and he returned to and resumed the practice of the law. At the regular election in 1863, the Honorable John F. Dillon was elected judge of the supreme court to succeed the Honorable Caleb Baldwin, whose term had expired, and he took his seat at the beginning of the January term.

Hon. John F. Dillon was born in New York, but removed from there when a small boy, with his father and family, to Davenport, Iowa, where he received a thorough education. He decided, when seventeen years of age, to study medicine and to make its practice the business of his life. Accordingly, he pursued the study with Dr. Barrows, the most eminent physician in that section of the country, and attended two courses of lectures at the Keokuk Medical School, where he graduated when twenty-one. He then entered upon the practice of his profession, but, not finding it congenial or suited to his tastes or aspirations, he only pursued it for a few months, when he turned his attention to the study of the law, which he pursued in the office of Hon. John P. Cook, one of the most eminent attorneys in the state, and he continued the study there until admitted to the bar in 1852. Shortly after he was admitted to the bar he was elected prose-

cuting attorney, to the duties of which office he gave his earnest, studious and successful attention. He devoted himself to the practice of the law very assiduously, and attained a high reputation and an extended business for one so short a time at the law. His studious habits and his natural, thorough and exhaustive investigation of questions presented to him, brought to him an enviable reputation as a learned lawyer. In 1858 he was elected judge of the district court of his district, composed of the four populous counties, Scott, Muscatine, Jackson and Clinton. Judge Dillon was endowed with a highly judicial mind, and his administration of the district bench was pre-eminently satisfactory. At the close of his first term he was re-elected without any opposition. Before the expiration of the second term he was nominated and elected to the supreme bench, whereon he served for one full term of six years, and he was nominated and re-elected for the second term, which began with January, 1870. Before he qualified for the new term, however, he was nominated by President Grant and confirmed by the senate as one of the nine circuit judges of the United States, and was assigned to the Eighth circuit, composed of the states of Minnesota, Iowa, Nebraska, Missouri, Kansas, Arkansas and Colorado. He declined to accept or enter upon the duties of the second term as judge of the supreme court of Iowa, but did accept and enter upon the duties of judge of the United States circuit court. Judge Dillon served as United States circuit judge till 1879, when he resigned that position and removed to New York City, where he entered upon the practice of the law and has since resided there, conducting one of the largest and most lucrative law businesses in that city. Judge Dillon's administration of his duties in connection with the supreme court of the state of Iowa and also of the United States circuit court, was with marked ability, thorough research and great learning.

Judge Dillon has not only attained high distinction as judge, but has also won many laurels in the field of legal authorship. While on the district bench, he prepared a digest of the decision of the supreme court of Iowa, which met with most cordial approval and large sale. He also prepared a most valuable and well approved work on Municipal Corporations, which became the leading text on that subject, not only in this country but abroad, and maintained its supremacy for quite more than a quarter of a century, and has no superior at this date. He has contributed, also, much to the legal literature of the times by his contributions to legal periodicals and also in the field of biography.

Early in the legislative session of the general assembly of Iowa, commencing in January, 1864, the legislature enacted a statute authorizing the appointment and election of an additional judge to the bench of the supreme court which, during the entire history of the state down to this period, had consisted of three judges, the constitution having provided for the increase of the number of judges as occasion should require. The legislature made the first provision for an addition to the number at that time in February, 1864. Pursuant to that law, Governor Stone appointed Chester C. Cole to the newly created judgeship.

Judge Cole was born in New York, where he received a good common school and academic education and a college course to the junior year, when by reason of sickness he was debarred from further pursuing the course. After reading law for two years at his home town, Oxford, New York, he entered the Harvard law school and pursued the course further there. On leaving law school he went to Marion, Crittenden county, Kentucky, in 1848, and there was admitted to the bar and entered upon the practice of his profession. His practice was very extended and full from the first, and so continued until he left there (which he did because of conditions growing out of the

then recent Fremont, Bell and Buchanan campaign and its effect there upon the peculiar institution), on the first of May, 1857, and removed to Des Moines, where he located and engaged in the practice of the law, and where he has continually since resided. Conditions at Des Moines were favorable at that time for gathering a good practice, of which conditions he availed himself, and he continued there until he was appointed to the bench of the supreme court. The appointment by the governor extended to the first of January following, and Judge Cole was elected to the same position in the fall of 1864, and again in the fall of 1870, and he continued his service on the bench until he resigned his position as chief justice late in January, 1876, in order to return to the bar and resume practice thereat.

In the fall of 1865, Judge Wright, who had theretofore lived at Keosauqua, removed to Des Moines, and he with Judge Cole organized a law school at Des Moines, and conducted it successfully there, graduating three classes, until the fall of 1868, when, at the urgent solicitation of the regents of the State University, they removed the school to Iowa City, and it became the law department of the State University. Judge Cole continued his teaching therein for the full period of ten years, and Judge Wright till he entered upon his duties as senator of the United States from Iowa. During his service on the bench, and later, Judge Cole edited for many years the Western Jurist, a legal periodical published at Des Moines, and also prepared notes to the first eight volumes of Iowa reports and did other legal literary work.

Among the earliest cases decided in the course of the January term, 1864, was French v. Rowe (15 Iowa, 563), involving the question of estoppel in pais and the power of partners. The opinion was prepared by Cole, Justice, wherein it appeared that the defendants were the payees of one and the indorsers of another promissory note, both

of which were executed by them as a firm for consideration tainted with usury, and that the plaintiffs, before taking the notes, called at the business place of the defendants and asked one of the defendant partners if the debt represented by the notes was "all right and would be paid," to which it was replied that "it was and would be promptly paid," and that the plaintiffs then took the debt by assignment (without any knowledge that it was tainted with usury) in payment of a debt due them from the makers and assignors. It was held, first, that the representations made by one of the makers operated to estop the firm from interposing a plea of usury as a defense in an action on the notes (Wright, Chief Justice, dissenting); second, that such representations made by one partner bound the firm. The attorneys in the case were Cook and Drury for the appellants and Grant and Smith for the appellees. A bit of history connected with this case induces its citation here. That history is as follows: The cause was very ably argued orally and also in writing by the counsel for each party, and was submitted at the Davenport term on the morning of one day, and the opinion was announced on the morning of the next or succeeding court day. The view of the majority is supported, not only by sound reasoning, but strongly supported by the numerous authorities cited. The same is true of the dissenting opinion of Chief Justice Wright, which dissent was to only the one proposition, to wit: that there could not be an estoppel against the plea of usury. At the time the additional judge of the supreme court was provided for by the act of the legislature in the early part of the session of 1864, the court was quite behind in its business, and the addition of another judge was regarded as a necessity in order to enable the court to catch up and keep up with its business. The prompt preparation of the opinion in this case was made an illustration of what the court could do when it was once well up with its business. The case has

always been recognized as a leading one in this state upon the questions decided.

Another opinion at the early part of the same term in the case of Craton v. Wright (16 Iowa, 133), involving the occupying claimant law as applied to the Half-breed tract, was prepared by Dillon, Justice, and decided that an occupying claimant of land situated on the Half-breed tract, who acquired his claim or color of title adversely to the decree of partition of said Half-breed tract, and who has, ever since the acquisition of his claim, resisted said decree, believing it to be fraudulent and void, is nevertheless entitled to compensation for improvements made on that land; the decision being rested upon the proposition that the right was secured by statute, which gives relief to "occupants of land who have color of title thereto, and who, in good faith, have made any valuable improvements thereon, and are afterwards, in the proper action, found not to be the rightful owners thereof." It was also decided that the right of an occupying claimant to compensation was assignable; also, that an occupying claimant is not entitled to compensation for improvements made after he is found, in a proper action, not to be the rightful owner. The counsel in the case were Rankin and McCrary for the appellant and Semple and Kinley for the appellee.

In the case of Sherman v. Christy (17 Iowa, 322), involving both the liability and the powers of a partner, decided at the December term, wherein the opinion was prepared by Lowe, Justice, it was decided that, where a firm by one of its members had signed a promissory note running as follows: "We and each as principal, jointly and severally," etc., whereon one of the partners afterwards confessed judgment, the note bound the partner who signed it severally as well as jointly, but bound the other partner only jointly as a member of the firm; that the confession of judgment bound only the partner making it;

that the note, being several as to the partner who signed it, was not merged, as against him, in the judgment against the other partner alone; and that the partner signing still remained liable thereon. Cole, Justice, dissented as to the proposition that the partner signing the note was bound severally. The attorneys in the case were Cassady and Polk for the appellant and S. V. White for the appellee. The reasoning of the majority and dissenting opinions has some special interest.

In another case (McNear v. McComber, 18 Iowa, 12), decided at the same term, and wherein the opinion was prepared by Lowe, Justice, the construction of a covenant in a deed was involved, and the result reached was a little peculiar. The defendant had sold and conveyed to the plaintiff a lot in the city of Dubuque for the consideration of fifteen hundred dollars. The deed contained full covenants of freedom from incumbrance, good right to convey, and warranty. The description in the deed of the premises preceding these covenants of warranty was as follows: "Do hereby sell and convey to said Mathew McNear the following premises, to wit: all our right, title and interest in and to lot No. 96 in the City of Dubuque." The plaintiff, the purchaser of the lot, had taken possession under his purchase, and was afterwards, by trial and judgment of court, evicted by another, because the plaintiff's grantor was not the owner of the legal title and had not the right to possession of the lot, and that the conveyance held by the plaintiff passed no title to him. This action was brought by the purchaser to recover the consideration paid, with interest and damages, and he recovered judgment, accordingly, in the court below. On appeal to the supreme court this judgment was reversed, on the ground that the premises conveyed by the deed were not the lot and the appurtenances, but all the right, title and interest of the grantors. After the judges had each read the record and the arguments and had met around the

consultation board for the purpose of consulting upon and deciding the case, it was found that Chief Justice Wright and Justice Lowe were for reversal and Justices Dillon and Cole thought the judgment ought to be affirmed. This difference it was found could not be adjusted by argument, but in the discussion it was suggested that the deed of conveyance whereon the action was founded was introduced as evidence in the court below and had become a part of the records of the court. The further discussion of the question was postponed until a writ of certiorari to the clerk of the district court, requiring him to send the original deed to the court forthwith. Later, and when the return was made to the writ, and we were in possession of the original deed, we found that the words "all our right, title and interest in and to lot No. 96 in the City of Dubuque" were in writing, and the warranties were all in print,—the deed being made on a blank form. We further found, on referring to the statute, that it contained this provision: "When an instrument consists partly of written and partly of printed form, the former controls the latter when the two are inconsistent." Thereupon Justices Dillon and Cole surrendered and the judgment below was reversed.

One of the vestiges of the War of the Rebellion is left upon the record of the decisions of our supreme court, in a case decided at the June term, 1865, entitled Kenyon v. Palmer (18 Iowa, 337), where the plaintiff sued the editor of the Des Moines Register for libel. The defendant had, in criticism of the plaintiff's conduct and speeches, used some of the pet denunciative phrases of the day, for which the plaintiff had sought, by this action, to recover damages. The opinion was prepared by Wright, Chief Justice, wherein it was held that the press is not restrained from the use of such strictures or criticisms as tend to guard the public from injury, or to lessen the influences of the doctrines and practices of immoral and dangerous

Wm. Hubbard

men. When one is falsely charged in a printed publication with disloyalty to his government, he may recover for the injury thus inflicted; but if his conduct indicates a want of fealty to its institutions, the press, when the disclosure is made from honest motives, should be left free to expose and make known such dereliction of duty. The leading features of the opinion, other than above, relate to pleading justification and mitigating circumstances. The plaintiff was a lawyer and appeared for himself, together with Phillips and Phillips, his attorneys, and the defendant was represented by Withrow and Smith.

CHAPTER XXV.

NOTICES OF ATTORNEYS.

Nathaniel M. Hubbard was a native of New York, where he was given not only a good common school and academic education, but where he also graduated from the Alfred University, after which he studied law also in New York. He came to Iowa in 1854 and located at Marion, where he began the practice of his profession, which practice he continued for the rest of his life, subject to such interruptions as were necessary for the discharge of other assumed duties, hereafter named. Mr. Hubbard was endowed by nature with a very keen and penetrating mind, having also great breadth and power. He suffered no delay nor hindrances in acquiring a good practice and he grew as a lawyer, not only with the brothers of his profession, but with the courts and the people, until he came to be justly recognized as in the very front rank of the profession of the state. He had during his experience several partners; among them, Isaac Cook, W. G. Thompson, Chas. A. Clark, and others. After the breaking out of the War of the Rebellion, in 1862, he raised a company

for the Twentieth Iowa Infantry, of which he was chosen captain, and he entered the service at that time. In 1863 he was promoted to judge advocate on the staff of General Herron, and he served in the army until 1865, when he was brevetted major. His military service was characterized not only by bravery and thorough competency in every position, but he was always active and efficient. After the close of his military service, and in November, 1865, he was appointed district judge of his judicial district, and he served as such with great acceptability, but soon found that his natural adaptation was more for the bar, wherein he could win larger advantages and reputation. Accordingly, he resigned after about one year's service and returned to the bar and accepted the position of general counsel for the state for the Chicago & Northwestern Railway Company and he continued in the service of that company until the close of his life. Judge Hubbard's thorough education and literary culture, as well as his early and always careful and thorough study of the law, gave him a position and recognition among the profession of the state and nation attained by but few. His knowledge of human nature and his tact in the management of his cases and the men associated with him and connected with his professional service were very unusual and superior, and therefrom he was often enabled to win success where defeat might have come to others. Judge Hubbard's natural characteristics and his attainments, together with the recognition which was given him in the state, made him one of the most influential men in the state, not only in the practice of the law, but in the moulding of the legislation of the state, and especially in connection with its railroad development and interests. These facts make it entirely proper to say that Judge Hubbard's influence in moulding the jurisprudence of Iowa is hardly second to any other man. His pre-eminent ability, together with his pure character and correct living, gave

him very justly a broad and helpful influence upon the people of the state and its history.

Isaac Cook was also a citizen of Linn County, and a lawyer engaged in practice there for many years. He was for several years the partner of Judge Hubbard, having their place of business at Cedar Rapids. They were, as a firm, the counsel for the Chicago & Northwestern Railway Company, during the entire existence of the firm. Judge Cook was for a time on the bench in that district, and a man of very broad and recognized ability. He was a very close, thorough and profound lawyer. He was careful to be not only thoroughly versed in all the facts and history of his case, but he was able to make the strongest presentation possible of his case to the court. His frankness, fairness and abiding honesty gave to his arguments an added force. On the whole, he was the peer of any lawyer in Iowa.

Charles A. Clark was born in Maine, and acquired there a thorough education, both English and classical. When he was but twenty years of age he entered the military service of the Union as a private in Company A of the Sixth Maine Infantry. He was promoted to second lieutenant in February, 1862, and later in that year to first lieutenant and adjutant of the regiment. He was honorably discharged on account of wounds in 1864, but subsequently enlisted again, and was commissioned captain and assistant adjutant general by President Lincoln, and held such rank until November, 1864, when he was again honorably discharged by reason of wounds. During his service he was also brevetted lieutenant-colonel and received a congressional medal of honor for specially gallant services. Colonel Clark's military service was certainly most remarkable, not only on account of the numerous battles in which he was engaged, but also on account of the special personal and extraordinary bravery manifested by him on multiplied occasions. He came to Iowa in 1866

and was the same year admitted to the bar, locating in the practice at Webster City, where he remained for ten years in a successful and extended practice, wherein he won a most enviable reputation. He then removed to Cedar Rapids and there became a partner of Judge Hubbard, and the firm of Hubbard and Clark was the general counsel for the Chicago & Northwestern Railway Company during their partnership, which continued for several years. Colonel Clark was a very able man and a very pure lawyer. This term is used with reference to his leading characteristic, which was to present to a court no other than a legal argument and the citation of well accredited decisions in support of the propositions which he presented. He never indulged in the presentation to a court of any consideration leading to the decision of a case other than that which was purely legal and proper. He always relied upon the strength of his case and its powerful presentation to the court in its purity. No man during his practice stood higher at the bar, or with the courts, than Colonel Clark. His style was neither vehement nor over deliberate, but always a calm, dispassionate and perspicuous presentation of his case, which commanded the attention, not only of the judge, but of every person within the sound of his voice. It may well be said of Colonel Clark that in his conduct as a lawyer he was a model, and his social relations with the members of the bar and with all with whom he came in contact were unexceptionable.

John N. Rogers was born in New York City, and was educated there and in Massachusetts, and was graduated from the New York University in 1848. His course of education was most thorough, and it was supplemented and broadened by teaching, both in literary and professional schools. He studied law in Northampton, Massachusetts, and was admitted to the bar in that state in 1852, and afterwards taught law in the State and National Law School in Poughkeepsie, New York. He removed to

Davenport, Iowa, in 1857, and formed a partnership there in the practice of the law with W. H. F. Gurley, who had been his fellow-student, and who was afterwards, by appointment of President Lincoln, United States district attorney for Iowa. Mr. Rogers was a very close, careful and painstaking lawyer. He was a man of high culture, endowed with a superior legal mind, and perhaps was the closest legal reasoner at the bar in the state during his residence here. He was engaged in many very important cases, and although there were no embellishments of florid phrases or collateral facts in his arguments, they were absolutely searching, thorough and exhaustive. He took special delight in the argument of legal questions before the court,—more than in the argument of law and fact before a jury, and yet it ought not to be said that he was more potent in the one than in the other. His taste led him to the purely legal, and it was with him as it is with men in general, that one likes best to do that wherein he excels. Mr. Rogers was fond of the law as a study, and of its practice, and he confined himself very closely to it, although he was persuaded to accept an election to the house of representatives of the state for one term. He was also persuaded to accept the office of judge of the district court for his district. In both positions he served with marked ability.

George H. Parker was also a native of New York, but later removed to Ohio, in each of which states he enjoyed the advantages necessary for a good education. He read law in Ohio, where he was admitted to the bar in 1852, and he continued the practice there for some two years, and removed to Davenport in 1854. He conducted a successful practice of the law in Davenport, in partnership most of the time with others. His firms successively had a good business, and it was well maintained during all the years of his practice there. Mr. Parker was a man of fine literary culture and capacities, and withal he was

a skillful political manager. His success in the political field operated to take some of his attention from the law. His versatility enabled him to embark in literary and political as well as legal business, and his success as a man in each and all of his departments of activity and employment was very pronounced and well recognized.

Chas. E. Putnam was born at Saratoga Springs, New York, and was educated in the schools and academies of that center of sociability for all this country, and he enjoyed, during all his minority, the highest privileges in connection with such surroundings. His natural inclinations were to literature, rather than to the law, but his frequent visits and familiarity at the home of Chancellor Walworth inclined him to the law, which he studied thoroughly under most favorable circumstances there. He was, therefore, very especially qualified in his education and legal learning for the practice of the law. In 1854 he settled at Davenport, and at once entered into the practice, in partnership with Judge G. C. R. Mitchell, a lawyer and judge of eminence and culture, and who was indeed a pioneer settler at that place. The firm enjoyed a good and profitable practice. Later, Mr. Putnam became the partner of John N. Rogers, the firm being Putnam and Rogers. Their practice was varied and of the best class, and such as to afford strength and reputation to the firm. Mr. Putnam was a man of fine business capacity and was connected with many scientific and literary associations in his city, as well as with manufacturing, commercial and banking enterprises. In each and all of these, he was efficient and influential. No person in his home city exerted more influence than Chas. E. Putnam, not only in the practice of the law, but in the multiplied enterprises with which he was connected.

G. C. R. Mitchell was a native of East Tennessee, where he was educated, and he graduated at the East Tennessee University in Knoxville in 1822. He studied

law in Mobile, Alabama, and was there admitted to the bar in 1825. He practiced there for several years and also served as clerk of the circuit court. In 1835 he removed to and settled in Davenport, Iowa, and became the leading practitioner of law in that city from his earliest settlement. At that early period the range of the practice was not great, much of it relating to "squatters'" claims. But his practice extended into Rock Island county, Illinois, and into all that range of country. In 1843 he was elected to the house of representatives of the territorial assembly, and he served efficiently therein. He was elected mayor of Davenport in 1856, and served one year, and was then elected to the district bench of the Fourteenth judicial district. By reason of ill health, he did not serve out the full term, being compelled to resign and go south for the restoration of his health. Judge Mitchell exerted for the time a most potent influence upon the jurisprudence of the territory and of the state. He was a man of high character and wielded a most healthful influence in all public and social affairs.

W. H. F. Gurley was the son of the distinguished Presbyterian divine of that name, a long-time pastor in Washington, D. C., and for several years chaplain of the house of representatives there. Mr. Gurley removed to Davenport prior to 1856 and, having been a fellow student at the law school with John N. Rogers, he induced Mr. Rogers to visit Davenport in 1856 with a view to locating there. The visit was made, and resulted in Mr. Rogers' removing to Davenport in 1857 and forming a partnership with Mr. Gurley, which was continued for three years, with very gratifying success. Mr. Gurley was a thoroughly read lawyer as well as thoroughly and broadly educated. He was elected to the house of representatives of the general assembly in Iowa in 1859. As showing the recognition which was accorded to Mr. Gurley, it is only necessary to say that, although he was then only a young

man, he was made chairman of the committee on ways and means in the session of the legislature in 1860. As such chairman, he reported a bill for a revenue law, which was one of the most sagacious and most approved laws that was ever passed by the Iowa legislature. Prior to that time, and during the years 1857, 1858 and 1859, the revenues were so insufficiently collected that county warrants in most counties of the state were below par, and in many more than fifty per cent below, and the revenues of the state were inadequate to the payment in full of the current expenses. Hitherto most tax laws provided for the doing of multiplied things in order to authorize the sale of property for the payment of unpaid taxes, and the difficulty of proving these facts, after the delays, resulting in sales and liberal periods for redemption, rendered tax deeds almost a by-word and a reproach. The bill for revenue, which was enacted into the statute under the lead of Mr. Gurley, made provision, in effect, that a tax deed should be presumptive evidence of the doing of everything provided by the statute to be done in order to authorize the deed. This provision of the statute was very strongly contested before the courts as being unconstitutional, but the law was sustained in all its parts by the courts, and resulted in the prompt collection of revenue, and in restoring county warrants to their par value, and placing the state upon a financial basis quite superior to its sister states. That revenue law, together with the decisions of the court sustaining and enforcing it, came to be recognized as a wise statute, contributing to the prosperity of the state and its people. It may well, therefore, be said that Mr. Gurley contributed very much toward the wise jurisprudence and legislation of the state, as well as to its prosperity and enviable financial reputation.

Edward E. Cook is a son of John P. Cook, and was born in Cedar county, Iowa. He had a good Iowa common school education, prepared for college at the school

in Geneva, New York, and finally graduated at Griswold college at Davenport, Iowa. He studied law at the Albany Law School, New York, and graduated there in 1863, and was admitted there to the bar. He afterward further pursued the study of the law in the office of his father and Judge Drury, who were practicing law in Davenport under the firm name of Cook & Drury,—Judge Drury being a man of broad capacity, thorough legal learning and extended experience at the bar. Edward E. was admitted into the firm immediately after his admission to the bar, and continued the practice in that firm and its successors, one of which included Judge Richman, of Muscatine. Mr. Cook was a young man of great energy, fine physique and thorough culture, both literary and legal, and he at once took rank at the bar with the ablest. Few men have attained equal prominence with like promptness; and the large practice of his firm gave him such experience as ripened him into a very strong lawyer. He continued the practice and fully maintained himself.

There were in the earlier days, and continuously down to date, many lawyers in Davenport who were strong, able men and who made their impress upon the jurisprudence of the state, both at the bar and in its legislative halls. Among them, we must mention **John C. Bills,** who was one of the strongest men mentally at the bar in that city and who maintained himself very ably and fully at the bar. He was also elected to the senate of the state and was a leader therein. He was a strong man in every way. **J. B. Leake,** a man of marked ability and high character, located in the practice of the law at Davenport and remained there for several years, but removed to Chicago about 1875. He was recognized at once in Chicago for his ability and legal learning, and was made United States district attorney for the Northern district of Illinois, the duties of which he discharged with fidelity and quite more than the usual success and acceptability. **D. L. Shorey**

located in Davenport about the same time as did Mr. Leake, and he made a marked success as a young man. He was elected to the office of city solicitor for Davenport, in the discharge of the duties of which office he won distinction. He continued the practice at Davenport for a few years only, and then removed to Chicago, where he, too, acquired early recognition and was made city attorney for Chicago, and attained equal success there as he had at Davenport. He continued the practice of the law there and earned well a position in the front rank of the members of its bar.

Abner Davison was one of the early lawyers in Davenport, as he was one of the very strongest, and among those having the largest practice. His partner was **David S. True,** who was also a strong man and thoroughly cultured in the law. The firm of Davison & True was recognized as an able firm, with substantially as large a business as any firm in the city, and their business was of high character. No more profound, logical or persuasive arguments came from any other firm. **H. R. Claussen** was also one of the early lawyers in Davenport. Having been born in Germany, and possessed of the logical type of mind characteristic of his nationality, and thoroughly cultured in the law, he was indeed a strong lawyer. His strength as a lawyer and high character as a man gave him such influence that he impressed himself upon the jurisprudence and policy of the state. The absence of reliable data compels the mere naming of the following as justly entitled to recognition for their fidelity in the practice, and their learning and high character, by which they have left their impress, not only upon the local jurisprudence, but also upon the jurisprudence of the state: James D. Campbell, J. W. Thompson, Chas. Whitaker, Geo. S. C. Dow, Geo. E. Hubbel, J. J. Lindley, Ernst Claussen, and others.

Samuel H. Fairall was born in Maryland, where he was

educated preparatory for college, and he graduated from Washington College in Pennsylvania in 1855. The same year he located at Iowa City, where he studied law in the office of W. Penn Clarke, and was admitted to the bar in 1856. He began practice at once, and by reason of his personal characteristics, of ability, industry and integrity, he soon acquired a desirable practice, and he has continued it, subject to other collateral duties, down to date. Mr. Fairall was elected to the house of representatives of the general assembly and served two terms, in 1862 and 1866, and to the senate in 1867-1871. His energy, industry and activity gave to him a marked influence in the legislature and upon its enactments, alike in each house. In 1866 he was elected judge of the Eighth judicial district, and re-elected in 1890. He did not serve out the last term in full, but resigned in order to return to and resume the practice of the law, which he did. His services as judge were thoroughly acceptable to the people, and it may well be said that Judge Fairall has left his impress upon the jurisprudence of the state as well as its legislation.

The bar at Iowa City had recognition, during that time, as one among the strongest of the best half dozen in the state. Among those giving strength to the bar of Johnson county and bringing to it such enviable reputation, was **James B. Edmunds,** who received a most thorough education during his boyhood and youth, and added thereto a very extended and close study of the law. Shortly after his location in Iowa City, which was substantially contemporaneous with Mr. Fairall, he formed a partnership with **Chas. H. Ransom,** a man alike educated in literature and law, and the firm of Edmunds & Ransom was second to none in the state. Their business was very extended, and the thoroughness of their attention to it could not be surpassed. The extent of their practice was a verification of their ability and success. Mr. Edmunds moved to Washington, D. C., prior to 1880 and

shortly thereafter was made one of the three governors or commissioners for the management of its municipal affairs. His service therein evinced the same breadth of ability, attention to business and marked success which had characterized his professional career in Iowa.

George J. Boal was another member of the Iowa City bar at the time referred to, and contributed his full share in the growth and maintenance of that enviable reputation for ability and fidelity in business which characterized that bar so markedly. Mr. Boal's business was on a par with the others of whom we have spoken, and his reputation, like all others of that bar, was not limited to excellence in his profession, but extended to the dignity of character and healthful influence as men in the community. A strong bar always presents important and difficult questions to the courts for decision. The writer hereof well remembers that in 1864, in the beginning of which he went on the bench of the supreme court, how confidently and assuredly the court could rely upon difficult and important questions being presented to the court, not only from the Johnson county bar, but also from the bars of Dubuque, Des Moines, Scott, Muscatine and Lee counties. **W. J. Haddock** was at the same time also one of the members of that bar, and was afterwards promoted to the bench, whereon he manifested the same careful, painstaking industry and fidelity as in the practice of his profession.

CHAPTER XXVI.

REVIEW OF CASES, ALSO ATTORNEYS.

At the December term, 1865, the case of Clark v. City of Des Moines (19 Iowa, 199), involving the powers and liabilities of a municipal corporation, was presented to and decided by the court, Dillon, Justice, preparing the opinion,

wherein it was decided that a municipal corporation may set up a plea of ultra vires, or its own want of power, under its charter, to enter into a contract on the ground that it is in excess of its corporate authority; that warrants drawn by the proper officer of a municipal corporation on the treasurer thereof are not bills of exchange, nor can the municipality be barred of a defense thereto by their transfer to an innocent holder—the taker thereof being bound at his peril to ascertain the extent of the authority for their issue; and that a municipal corporation has no power to lend its credit or make its accommodation paper for the benefit of its citizens, in the execution of their private enterprises. Polk & Hubbel were attorneys for the appellant, and Phillips & Phillips for the appellee.

Another case (Jones v. Jones, 19 Iowa, 236) involved the rights of married women and the right of a husband and wife to litigate between themselves—a peculiar case, and a peculiar point and ruling. The opinion was prepared by Wright, Chief Justice, wherein it was held that the property of the wife does not vest in the husband by the marriage. Also that a wife who has abandoned her husband for cause, or has by him been driven from his home without cause, may maintain an action of replevin against him, in her own name, to recover the possession of her separate property.

We have heretofore referred to the doctrine respecting the admission of affidavits of trial jurors as a basis for setting aside the verdict of such jurors, and have called attention to one or two cases and discussed, a little, the doctrine. A case entitled Wright v. I. & M. Tel. Co. (20 Iowa, 195) arose in the June term, 1866, involving the question of the competency of the affidavits of trial jurors for the purpose of avoiding or setting aside the verdict. The opinion was prepared by Cole, Justice, in which a large number of cases are reviewed and considered, and a rule laid down under which many of the cases could be

harmonized. The opinion states the rule controlling the receiving or rejection of such affidavits as follows: "That affidavits of jurors may be received for the purpose of avoiding a verdict, to show any matter occurring during the trial or in the jury room, which does not essentially inhere in the verdict itself, as that a juror was improperly approached by a party, his agent, or attorney; that witnesses or others conversed as to the facts or merits of the cause out of court and in the presence of jurors; that the verdict was determined by aggregation and average or by lot, or game of chance, or other artifice or improper manner; but that such affidavits to avoid the verdict may not be received to show any matter which does essentially inhere in the verdict itself, as that the juror did not assent to the verdict, that he misunderstood the instructions of the court, the statements of the witnesses, or the pleadings in the case; that he was unduly influenced by the statements or otherwise of his fellow jurors, or mistaken in his calculations or judgments, or other matter resting alone in the juror's breast.

"That the verdict was obtained by lot, for instance, is a fact independent of the verdict itself, and which is not necessarily involved in it. While every verdict necessarily involves the pleadings, the evidence, the instructions, the deliberation, conversations, debates and judgments of the jurors themselves; and the effect or influence of any of these upon the juror's mind must rest in his own breast, and he is and ought to be concluded thereon by his solemn assent to and rendition of the verdict (veredictum—a true declaration). To allow a juror to make affidavit against the conclusiveness of the verdict by reason of and as to the effect and influence of any of these matters upon his mind, which in their very nature are, though untrue, incapable of disproof, would be practically to open the jury room to the importunities and appliances of parties

and their attorneys, and, of course, thereby to unsettle verdicts and destroy their sanctity and conclusiveness."

A recent writer (Hughes) on the subject of evidence, in referring to this question, recognizes the rule of the opinion in the following words: "Upon principle, however, and according to the better view, the affidavit of a juror is admissible to impeach a verdict, provided the affidavit does not concern any matter which essentially inheres in the verdict itself." The author cites the above Iowa case, and in another place in his text speaks of it as the "Iowa Rule." The attorneys in the case were C. Baldwin for the appellant, and Clinton and Sapp for the appellee. We have before noticed Judge Baldwin; the firm for appellee was composed of Samuel Clinton and W. F. Sapp. The want of reliable data has delayed the notice of Mr. Clinton and we must now give it, in the absence of such data, from personal recollection.

Samuel Clinton was admitted to the bar in Jefferson county, Iowa, and practiced there for a time with marked success. Later, he removed to Council Bluffs, and Judge Baldwin, who had formerly also lived in Fairfield, moved to Council Bluffs, and the two formed a partnership for the practice of law there, and the firm continued the practice until Judge Baldwin was elected to the supreme bench. During that time, the firm of Clinton and Baldwin had the controlling legal business of Council Bluffs and were recognized as among the leaders of the bar in the western part of the state. Mr. Clinton was a very close and industrious lawyer and most thoroughly read in its elementary principles, and he attained an enviable reputation, both as a consulting and trial lawyer. He was a man of most excellent character and his influence as a man, as well as a lawyer, was potent and healthful. After Judge Baldwin went upon the bench, he formed a partnership with W. F. Sapp, under the name of Clinton and Sapp. Later, and about 1882, or 1883, he removed to Minneapolis.

W. F. Sapp was a native of Ohio, where he received both a common school and academic education. He studied law with Columbus Delano at Mt. Vernon, and was admitted to the bar there in 1859, and began the practice of the law then. In 1864 he was elected prosecuting attorney, which office he held for four years, and at its close he removed to Omaha, where he was engaged in the practice of the law, and became a member of the Nebraska territorial legislature. He volunteered in 1862, and was made lieutenant-colonel of the Second Nebraska Cavalry. After the war, he removed to Council Bluffs, and he practiced law there until his death. He was a good lawyer, and excelled in the trial of jury cases. He was a member of the Eleventh general assembly of Iowa, and was in 1869 appointed United States district attorney for Iowa, serving four years therein with efficiency and success. In 1878, he was elected to congress from the Eighth district, and he served there one term.

The case of Turner v. Hitchcock (20 Iowa, 310) was one of great peculiarity and involved the question of the release of all joint wrongdoers by the release of one, which was decided by a divided court as to the particular facts of that case. The court was agreed on the proposition that, as a general rule, the release of one wrongdoer discharges all. The opinion was prepared by Dillon, Justice, and discusses the discharge of one wrongdoer and its effect upon others, with the conclusion before announced. The facts of the case were peculiar. Several ladies became more or less indignant and incensed over the sale of intoxicating liquors by a keeper of a grocery in the town of Shell Rock. These ladies combined and made a raid upon the saloon or grocery and destroyed the candies, figs, oysters, glasses, beer, ale, etc., eviscerating the grocery and putting an end to it as a place of business. Afterwards, the owner of the grocery brought suit against many, but not all, of the ladies in the combina-

Geo. F. Wright

tion, and before the trial of the case he married one of the ladies whom he had not sued, although one of the joint doers of the destruction of the saloon or grocery. The defendants in the case pleaded these facts, and claimed therefrom that the plaintiff had by his marriage with one of the wrongdoers obtained satisfaction for the wrong and asked to be discharged for that reason. The court below held that such marriage was a satisfaction, and held against the plaintiff. This judgment of the court below was affirmed by an equal division of the judges of the supreme court, Dillon, Justice, and Lowe, Chief Justice, holding that the marriage was a satisfaction; Wright, Justice, and Cole, Justice, dissenting.

Geo. F. Wright was born in Vermont and received there a good common school and academic education. Before attaining his majority, he broadened his academic education by four years of teaching. In 1855 he removed to Iowa and settled in Keosauqua, where he studied law under and in the office of Knapp and Wright. The next year he was admitted to the bar, and then became a partner with his principals (one of whom, Judge Wright, had been elected chief justice of the supreme court of the state of Iowa) and took his place in the firm which became Knapp, Caldwell and Wright, and continued the practice there for some ten or twelve years, until 1868, when Mr. Wright removed to Council Bluffs. Upon his removal to Council Bluffs he formed a partnership in the practice there with Ex-Chief Justice Caleb Baldwin, who had closed his service on the supreme bench of the state some three or four years before. The firm of Baldwin and Wright was recognized as the leading firm of lawyers in that part of the state, because of having the most extended business and of the great ability, experience and devoted attention to the business by the members of the firm. After Judge Baldwin's death, Mr. Wright continued the practice of the law with other associates. In 1874 Mr.

Wright was elected to the state senate from his district, and was especially successful and efficient in general legislation and in securing much for his locality. He was a man of high character and was prominent in many of the leading public enterprises and in financial matters, and during his residence there occupied a large place in the public interest and esteem. He died December 13, 1906.

Lewis W. Ross was a native of Ohio, where he received a thorough literary and scientific education and graduated at Miami University, in 1852, after which he studied law in Hamilton, Ohio, for two years and was admitted to the bar in 1854. In 1856 he removed to Iowa and located first at Lewis, in Cass county, where he practiced for some years, till 1861, when he removed to Council Bluffs, and there with quietness, and yet with persistency and industry, he continued the practice of the law, attaining a gratifying measure of success therein. In 1863 he was elected to the state senate from his district, and he made a good and satisfactory record as a legislator. In 1880 he became a professor of law in the State University and the following year was elected chancellor of the law department, which he continued to fill for several years, and he gave strength and character, as well as recognized great usefulness, to the law department. He was the author of "An Outline of Common Law and Code Pleading" and also "An Outline of the Law of Real Property." Chancellor Ross was a conscientious, earnest Christian man of high character and broad influence. He died November 22, 1902.

Wm. H. Stivers was a native of New York, where he received only a limited education. When a mere boy he went with his father to Ohio, where he learned the blacksmith's trade with his father, who was an excellent blacksmith and of whom the son seemed very proud, as well as of his business. The family moved to Iowa and settled in Jones county in 1850, where they continued the

L. W. ROSS.

business, and the next year removed to Lisbon, where they established and continued the same business for five years, during which time the son studied law, under the encouragement and instruction of Isaac H. Preston, of Marion. After being admitted to the bar, he removed to Toledo, Iowa, and there settled permanently in the practice. For the first eight years his partner there was a Mr. Safley, and afterwards he practiced alone. Mr. Stivers was a man of indomitable energy and will power, and with great industry devoted himself to the study of the law, and was recognized for many years as a very thorough, sound, as well as faithful and reliable lawyer. He was regarded as invincible in jury trials. His excellent character and long residence at the one place gave to him a decided influence for good in whatever business or association he was connected. He died some years ago.

Geo. W. Bassett was born in Canada, but was educated in Wabash College, Indiana, and at the Cincinnati Law School. On coming to Des Moines in 1856, he studied law further with Hon. John A. Kasson, and afterwards, in 1858, located at Fort Dodge, where he engaged in the practice of the law and continued the same. In 1861, he entered the army and was made lieutenant in a company of cavalry which was attached afterwards to the Army of the Potomac. He was wounded in battle, and in consequence thereof was forced to resign. In 1863, after he returned from the army, he was elected to the state senate from the Fort Dodge district and served a full term therein. Mr. Bassett was a quiet but very industrious and persevering man in every duty presented to him, whether at the bar, in the army, or in legislative halls,—a man of great personal goodness.

Theodore Hawley came to Fort Dodge some time before Mr. Bassett. He entered the practice there and soon gained recognition, not only as a good strong, competent and faithful lawyer, but also as a citizen ready to co-

operate in every helpful and promotive enterprise, and as a citizen and lawyer he was second to no man in the public regard. He served one full term in the senate, and discharged all his duties there with efficiency and ability, and secured for his locality and district many local advancements. At the bar and in the legislative halls he made his impress for good upon the jurisprudence of the state and upon the history and development of his locality and of the state at large.

CHAPTER XXVII.

NOTICES OF ATTORNEYS.

Daniel D. Chase was a native of New York, where he received a good common school education; and after teaching for two or three years he had a thorough academic course in the Cazenovia Seminary, one of the best schools of its class in all the state. He studied law and concluded his course in the same with his great uncle, Judge Daniel Cady, one of the most eminent and long-service judges of that state. He was admitted to the bar in the state of New York in 1856, and continued the practice there as partner of Wm. Wait, a distinguished legal author of New York. In 1858, he removed to Webster City, Iowa, and commenced the practice of the law there with quite more than the average of business success. He acquired much enviable reputation by his prosecution of persons for the violation of the liquor law, and became practically the leader of the bar in his county. He was a member of the first board of education under the constitution of 1857. He was also elected district attorney for his judicial district, the Eleventh, and served two terms. In 1865 he was appointed judge of the district court, and served therein most acceptably. Judge Chase was a very

J. N. W. Rumple

energetic, able and faithful judge, and attained a very enviable reputation as such.

John N. W. Rumple was a native of Ohio, and came with his father and family to Iowa county, near Marengo, in 1853. He received a thorough academic course, and was well advanced in the State University at Iowa City, when, in August, 1861, he enlisted as a private in the Second Iowa Cavalry. He remained in the army for the full term of the war, and was promoted by degrees to corporal and thence on to captain. He was in more than one hundred skirmishes and battles. Upon his return from the army in 1865, he commenced the study of law with H. M. Martin of Marengo, which he completed, and he was admitted to the bar and at once entered into a very successful practice. Captain Rumple was noted for his faithfulness, integrity and attention to business, and he maintained that reputation. He was elected to the state senate in 1872, and he served with fidelity and acceptability, and was re-elected in 1875. As a legislator Captain Rumple ranked very high, not only with his constituents for the service rendered them, but by his co-legislators for his efficiency and service therein. Captain Rumple was a modest, unassuming and yet an aggressive and efficient man, and was deservedly very popular with all his associates in whatever line of duty.

John Y. Stone, born in Illinois, came to Iowa with his parents when a mere boy. He received a good education, and before reaching full age and at the beginning of the War of the Rebellion, he enlisted in the Fifteenth Iowa Infantry and served until peace was restored. He then returned to Glenwood, Iowa, and entered upon the study of the law, completed it, and was admitted to the bar. His course of study of the law was very close and thorough. He was elected to the house of representatives of the Twelfth general assembly, and the efficiency of his service was so manifest and satisfactory that he was re-

elected to the Thirteenth, and then elected to the senate, thus serving eight years continuously in the legislature. He was elected speaker of the house of representatives in the Thirteenth general assembly and discharged its duties with ability and satisfaction. In 1888 he was elected attorney general of the state, and with such marked ability and satisfaction did he discharge the duties of the office that he was re-elected to the two succeeding terms, thus serving three terms as attorney general. It is not necessary to say that Mr. Stone has left upon the jurisprudence of the state and upon its legislative history multiplied evidences of his ability and fidelity.

Elijah Odell was a native of Indiana, where he received a good and thorough education, and also pursued at length the study of the law, and was admitted to the bar. He located at McGregor, Iowa, in 1854 and engaged in the practice of his profession. A man thus panoplied, having also a fine and commanding personnel, and endowed with unusual ability and industry, could hardly fail of success or of making his impress upon the people and institutions about him. Mr. Odell was one of the leaders of the bar in his district and attained an enviable state reputation.

Wm. E. Odell is the son of the subject of the preceding sketch, and was educated in the public schools of Iowa, and attended, for his college course, the University of Wisconsin, from which, after a most thorough course, he was graduated in 1872. He began the study of law in his father's office, and after two years' close and thorough study was admitted to the bar in 1874. At once he entered into the practice of the law in connection with his father, and their business was full and promising. However, during the first year of their partnership, the father died and left the business with the son, who conducted it with decided ability and success until 1891, when he removed to Des Moines, where he has continued the practice of the

law since. William E. Odell is a man of studious habits, careful and attentive to his professional duties, and always faithful to his clients. He has given considerable attention to corporation law, and is himself in connection with several of the leading corporations of the city, and has good recognition, both as a lawyer and as a business man.

John T. Stoneman was a native of New York. He had a thorough education in the common schools of his neighborhood and in the Jamestown Academy, after which he attended a full course at Williams College, Massachusetts. He studied law, including a course in the Albany Law School, where he was admitted to the bar in 1855. In 1856 he removed to McGregor, Iowa, and commenced the practice of his profession, which he has continued from that date. Mr. Stoneman is a man of broad capacities, thorough culture, and of great energy and aggressiveness, and success has attended his entire record as a lawyer. He occupies a high place as a lawyer and as a man in the estimation of all with whom he is associated. He was elected to the state senate in 1875, and he served a full term therein, and, although a member of the minority party at that time, he was recognized as one of the leaders of the senate and a man of most marked ability.

Leander O. Hatch was a native of Ohio, where he received a moderate education, which was supplemented and improved by teaching school and one term in an academy. His knowledge of the law was acquired by private study with such aids as could be secured from attorneys within his practical reach. He was admitted to the bar in Ohio in 1849, and practiced law in Cuyahoga county until 1853. He moved to Iowa and located at Waukon, the then new county-seat of Allamakee county. He opened an office there and continued the practice until 1869, when he removed to McGregor, and there continued the practice in partnership with Ruben Noble, and afterwards with Judge Granger, later of the supreme court.

The business of the firm of Noble, Hatch and Frese was very extended and lucrative. In 1866, while living at Waukon, he was made district attorney of the Tenth judicial district, the duties of which he discharged faithfully and efficiently until he resigned, which was after the middle of his term. He was afterwards elected judge of the Thirteenth judicial district, and made confessedly one of the best judges that district ever had. Judge Hatch was a man of very great clearness and penetration of mind, and on the bench he seemed to comprehend with readiness and exhaustiveness the questions involved, and his instructions to the juries were always very luminous. He was a man of most decided ability, excellent character and abiding faithfulness. His impress upon the jurisprudence of his district and state was marked.

Washington I. Babb is a native of Iowa, and he acquired his education, which is very thorough, in the public schools and in the Wesleyan University at Mt. Pleasant. He partially completed his course in the University, and in 1863 enlisted in the Eighth Iowa Cavalry and served therein until the close of the war, after which he completed his full college course in the University, and graduated in 1866. He then studied law and was admitted to the bar, and he entered upon the practice in 1868. The firm of Woolson and Babb, composed of Judge Woolson, of the United States district court, and our subject, was continued for eighteen years, during which time the firm was regarded as one of the ablest in the state. The fact that at the close of their practice the senior member of the firm, John S. Woolson, was appointed judge of the United States district court for the Southern district of Iowa, and that the junior member of the firm, Washington I. Babb, was elected to the bench of the district court of Iowa, may be accepted as in some slight degree, at least, the verification of the classification we have given the firm. In 1883 Judge Babb was elected to the house of representatives of

the Twentieth general assembly, wherein he served with ability and on the leading committees of the house. Judge Babb's most excellent character added to the weight of his influence and the dignity with which he administered justice on the bench and at the bar.

Isaac J. Mitchell was a native of Ohio, where he received his education, which consisted of a common and high school course and one year in Asbury College. He taught school several years, and thereby broadened and the better embedded in his mind his school learning. He studied law before removing to Iowa, which was done in 1855, locating at Boonesboro, where he completed the study and was admitted to the bar. He at once entered upon the practice of the law and continued it until his death, excepting the time he was on the bench of the district court. In 1868 he was elected to the senate from his senatorial district, and he gave close attention to matters of legislation, and especially to one matter much broader than his district, and that was legislation with a view to settling the title and doing justice to the settlers on the Des Moines river lands. In 1874 Judge Mitchell was elected to the bench of the district court for the Eleventh district, and he served thereon with eminent satisfaction and unquestioned integrity until his death.

CHAPTER XXVIII.

REVIEW OF CASES—NOTICES OF ATTORNEYS.

At the December term, 1866, a novel question in insurance law was decided in a case which had been submitted at a prior term. It was the case of Ayers v. Home Insurance Co. (21 Iowa, 185). The opinion was prepared by Dillon, Justice, and the new or novel point decided, upon principle rather than authority, was that, when the

local agent of an insurance company has power to pass upon applications for policies of insurance and issue policies, without forwarding the application or submitting the matter to the company, and when an agent thus empowered was, when he received the application, informed of the condition of the ownership of the property and failed to take down correctly the facts stated, and the policy was thereupon issued by such agent and received by the assured in ignorance of any misstatement or omission, the company was bound by the act of the agent, and a recovery could not be defeated on the ground that the agent did not correctly state in the policy the facts concerning the interest or title of the assured. Aliter, if the agent had been authorized only to receive and forward applications. Finch, Clark and Rice for the appellant, and Polk and Hubbell and J. M. Dorr for the appellee.

At the same term was decided the case of Hendrickson v. Kingsbury (21 Iowa, 379), involving the question of exemplary or punitive damages, which received very deliberate and extended consideration, and has come to be more or less a leading case upon that subject. The opinion was prepared by Cole, Justice, and refers to the controversy between Prof. Greenleaf and Mr. Sedgwick, the author of a most valuable work on the subject of damages many years before, and which intimates that the controversy was, after all, one of the terminology of the law, rather than of essential principle underlying the question. The instruction of the court below upon the subject of damages was as follows: "Damages are of three kinds, nominal, compensatory and exemplary. First, nominal damages are proper when any right has been invaded, and no evidence has been given of any particular amount of loss, and some very small sum, such as a cent, merely sufficient to carry costs. Second, compensatory damages are given when no elements of oppression or malice enter into the commission of the offense, and are designed

merely to compensate the actual amount of damages for the injury sustained. Third, exemplary damages are given whenever elements of oppression or fraud or malice enter into the commission of the offense and in such cases the jury are not limited to actual compensation, nor are they required to scrutinize very closely the amount of the verdict, but, blending together the rights of the injured party and the interests of community, they may give such a verdict as will compensate for the injury and at the same time inflict some punishment upon the defendant for his wrongful act, protect society, and manifest a detestation in which the act is held by them." The last phrase of the instruction was held erroneous by the supreme court, and for that error the judgment below was reversed. It was further decided that the damages allowed in a civil case by way of punishment have no necessary relation to the penalty incurred for the wrong done to the public, but are called punitive damages by way of distinction from pecuniary damages, and to characterize them as a punishment for the wrong done to the individual plaintiff. Robert Percival for the appellant, and D. M. Soloman for the appellee.

In looking through the volumes of reports in a search for leading cases, I find a note at the conclusion of the opinion in the case of McGregor v. McGregor (21 Iowa, 441-459) decided at the same term as the last cited case, wherein the opinion was prepared by Cole, Justice, the note being as follows: "Lowe, Chief Justice, was not present at the argument or consultation upon the case and therefore takes no part in the decision of it." This note reminds me of the propriety of stating the rules which the court as then organized adopted for itself, and which were rigidly and uniformly enforced. "Rule 1. Each judge must read, before consultation, the record in every case submitted to the court. 2. After such reading by all the judges, and not before or otherwise, a consultation shall

be had, whereat each judge shall have his notes of the case under consultation, prepared by him during the reading of the record. 3. No opinion shall be prepared by any judge in any case until after such reading and such consultation. 4. After the consultation is concluded, the result shall be noted by each judge on his submission docket, and the cause assigned by the chief justice." After a little time this rule as to assignment by the chief justice was changed so as to read, "The cases shall be assigned in order, each judge taking every fourth case"—a going-to-mill process.

While Judge Wright was a very considerate and deliberately a thinking man, yet he was full of humor and of anecdote. On one occasion, one of the judges finding, as he thought, a very certain and easy case, which could be decided only one way, concluded, in order to save time, to prepare the opinion as he concluded his reading and notation. He did so, and on coming to the case for consultation he remarked that that case came to him, and there was no doubt about it, and he had prepared an opinion. Judge Wright asked him how he had decided it. "Why," he said, "I affirmed the judgment," to which Judge Wright said, "I read that case and it has to be reversed." The judge having the opinion asked permission to read it, but this was denied, and his opinion when, after assignment, read, was actually turned down.

Another reminiscent incident may be stated here: After retiring from the bench and for many years, the writer made it a practice to call upon the judges for a brief interview in courtesy and congratulation. During one of these calls, some four or five years after my retirement, in talking of the manner of disposing of business, it was mentioned by me, incidentally, that I had never written an opinion in any case without having read the entire record, every word of it, from beginning to end, at least twice —once for consultation, and the second time in review and

preparing for writing the opinion. Judge Seevers opened his response with a laugh, and said he had not read an entire record since he came on the bench, and then went on to explain how, from reading certain parts of the record, he would know some of the other parts as well as from reading, to which the response was made by me, that I was ready to believe it of him, but I could not credit it as to any other person of my acquaintance. Judge Seevers' mind was one of the most rapid moving minds possible, and his apprehension was so ready and facile that it could not be surpassed. It may also, with equal verity, be stated that the intuitive conclusion reached by him was the best he could reach. Reflection and ratiocination afforded but little, if any, aid to him. It is, however, fairly due to Judge Seevers to say that his impromptu conclusions were more uniformly correct than those of any other person whom I ever met.

Having made this more or less departure from a direct line of our purpose, it may not be out of place to further say that the wisdom and soundness of the opinions announced by a court are not controlled alone by the greatness of intellects composing the courts, but much depends upon the order and manner in which the court does its business. In other words, an average mind, controlled with practical and wise methods of disposing of business, may give to the results reached a higher grade of excellence than more mental power and less practical methods. In the consideration of cases, when gathered around the consultation board, a technical point in the case has sometimes been suggested by one as a means of disposing of the case and avoiding a very troublesome question, which would be most difficult to satisfactorily solve, and to which this response has been heard many, very many, times: "But this is a court of last resort, and, if it is possible, it is our duty to decide it upon its merits, and not

upon any technicality," and this suggestion was always accepted as a rule and uniformly followed.

After Lowe became chief justice, and at the June term, 1867, a very important case involving title to swamp lands in the state was before the court. It was the case of Fremont County v. The B. & M. Ry. Co. and Mills County v. Same (22 Iowa, 91). The opinion was prepared by Lowe, Chief Justice, who during his term as governor of the state had much to do with those lands and the title to them, and was very especially prepared and qualified for writing the opinion and coming to a correct conclusion therein. The case was very important, and the consultation very extended, and the arguments were exhaustive, and by very able counsel. The opinion gives a very succint and full history of the federal and state legislation in connection with the swamp lands, and shows the intention of the federal government to vest in the state absolutely the title to such lands. It is a most valuable historical opinion. The attorneys in the case were David Rorer for the defendant and appellant, Henry Strong also for appellant, J. A. Harvey for the appellee, Fremont County, and Wm. Hale for the appellee, Mills County; the two cases being submitted together.

At the same term was decided the case of Arnold v. Potter (22 Iowa, 194), which was a most interesting case, very complicated in its facts, and involving private international law upon the question of usury. Wright, Justice, prepared the opinion. The action was upon eleven notes for ten thousand dollars each, and ten for five hundred each, payable at intervals of six months. The plaintiff was a resident of Massachusetts, the defendant of Iowa. The notes were made at Keokuk, payable in New York to the order of one Baldwin, who endorsed them to the plaintiff in Iowa. The notes were secured by trust deed on real estate situated in Iowa, which deed was acknowledged by the defendant in Massachusetts, and by his wife in this

state, and the trustee resided in Iowa and there accepted the trust. The usury laws in each of the states were different, the penalties being the least in Iowa and the greatest in New York. The opinion is an exhaustive discussion of the rule of international law on the subject. The final solution of the question was upon this point, in effect: That it is competent for citizens of different states who are parties to a promissory note to contract in good faith for the rate of interest, and with reference to the law of the state where the maker resides, and where the property mortgaged to secure the note is situated; although the note is in terms payable in a state different from the residence of either, and the interest reserved is greater than the legal rate of the state where the note is made or where by its terms it is payable.

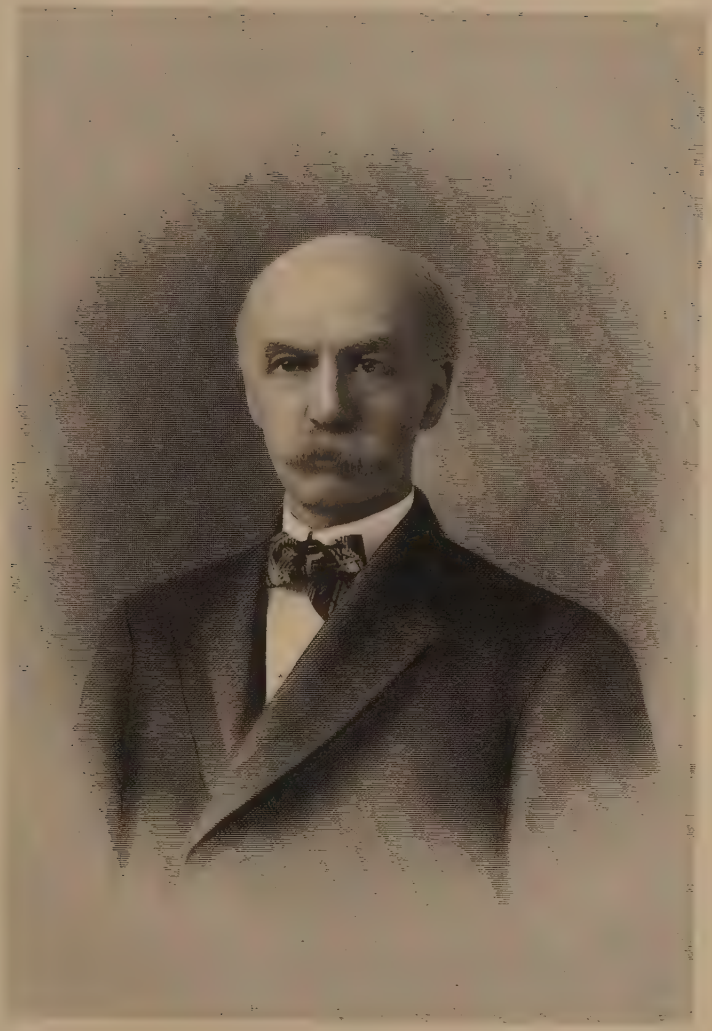
Robert Percival, the attorney for the appellant in the case involving the question of exemplary damages, and **D. N. Soloman,** the attorney for the appellee in the same case, were each lawyers of extended reputation in Southwest Iowa, and each had a very extended clientage and business. Mr. Percival was the older man, and had more extended practice, which had given him, not only a reputation as a lawyer, but had given to his presentation of cases in court such a standing as made him a very formidable adversary. He was also a man of very excellent character. Mr. Soloman was a man of more activity and possibly more versatility, and was not required by his mental characteristics to devote as much time to a case as was his competitor. Each party in that case was well represented by his counsel and each one of these made his impress upon the jurisprudence of Iowa.

Henry Strong, one of the attorneys for the appellant in the Swamp Lands Case, resided at Keokuk, and was a man of broad culture and very extended and thorough legal learning. He was also a most devoted student of the law in his cases, and prepared them with an exhaustive-

ness seldom surpassed. He had a very strong logical mind, and few men at the bar could surpass him in the presentation of a case.

Wm. L. Joy was a native of Vermont, but received his college education at Amherst College, from which he graduated in 1855, and thereafter, at his home, he studied law and was admitted to the bar. He removed, in 1857, to Sioux City, Iowa, where he made his home till his death. He began the practice of law immediately upon his arrival there, having a partnership with N. C. Hudson for a while, and afterwards with Craig L. Wright, which latter partnership continued for more than twenty years. Mr. Joy was a man of broad mental endowment and a ponderous physique, and his influence at the bar was largely in accord with his mental and physical broadness. He was a very industrious and persistent student, and ranked among the first lawyers in that city and in that part of the state. In 1865 Mr. Joy was a member of the house of representatives of the Eleventh general assembly. His services as legislator were on a par with those as a lawyer. He took much interest in education, and, by his service upon the school boards and otherwise, rendered much aid therein. He was a thorough Christian man and his influence was potent for good.

Craig L. Wright, the partner for twenty years or more of the subject of the foregoing sketch, was born at Keosauqua, Iowa, and had the advantage of the common and high schools of Iowa, and also of its State University, and he graduated from the law department of the Iowa State University the third year after its organization. After admission to the bar, he settled in the practice at Sioux City, and from that time to the present he has enjoyed a very extended, enviable and lucrative practice, ranking among the first of the profession in his home city, and, indeed, in all the northwest part of the state. Mr. Wright is a son of Hon. Geo. G. Wright, for many years the chief



Craig L. Wright

justice of the supreme court of the state of Iowa, and a representative of that state in the United States senate. By heredity, by environment, and by endeavor, he is justly entitled to the rank in his profession which he holds, and to which he has sedulously devoted himself. He is a very close lawyer, and at the same time does not allow his capacities to discern the difference between similar positions to lead him from grasping and enforcing the leading principles and rights in his case. Mr. Wright has taken an active part in all the elevating organizations of his city and enjoys justly the confidence of his people.

Constant R. Marks was a native of New York and was the son of a lawyer. He was thoroughly educated in the common and academic schools of that state, and he attended Yale College for a time, leaving before graduation because of sickness. He studied law in the Albany Law School. He enlisted and rendered faithful service in Company K, Eighth Massachusetts Infantry, during the early years of the war, sickness preventing further service. He was admitted to the bar in 1867, and removed to Sioux City the following year and entered upon the practice of his profession. He devoted himself to the practice of the law and came to be recognized as worthy of an honorable place therein. He has continued the practice since, attending to other business interesting to himself in the meantime. He was in the house of representatives of the Thirteenth general assembly, and rendered faithful service as a legislator. He has taken an active part in education and has been a member of the school board in his city. He has also taken an active part in the healthful enterprises of his city, making himself felt in every way both as citizen and lawyer.

CHAPTER XXIX.

NOTICES OF ATTORNEYS.

Geo. W. Wakefield was born in Illinois and there furnished with a thorough education, including a college course in Lombard University. After graduating, he broadened and strengthened his education by teaching school for several years. He enlisted as private in Company F, Forty-first Illinois, in 1861, and served till August, 1864. He was admitted in 1868 to the bar in Illinois, and located that year in Sioux City, where he with promptitude built up and maintained an extensive practice and established an enviable reputation as man and lawyer. In 1887 he was elevated to the bench of the circuit court, and afterwards to the district court, and in a long service as judge in that district he has retained and strengthened the confidence of the public in him in every way. His district was composed of nine counties, and his administration of the law from the bench has been one of great acceptability. Judge Wakefield was by nature specially adapted to the bench, and his legal learning and patient investigation brought to him the highest encomiums.

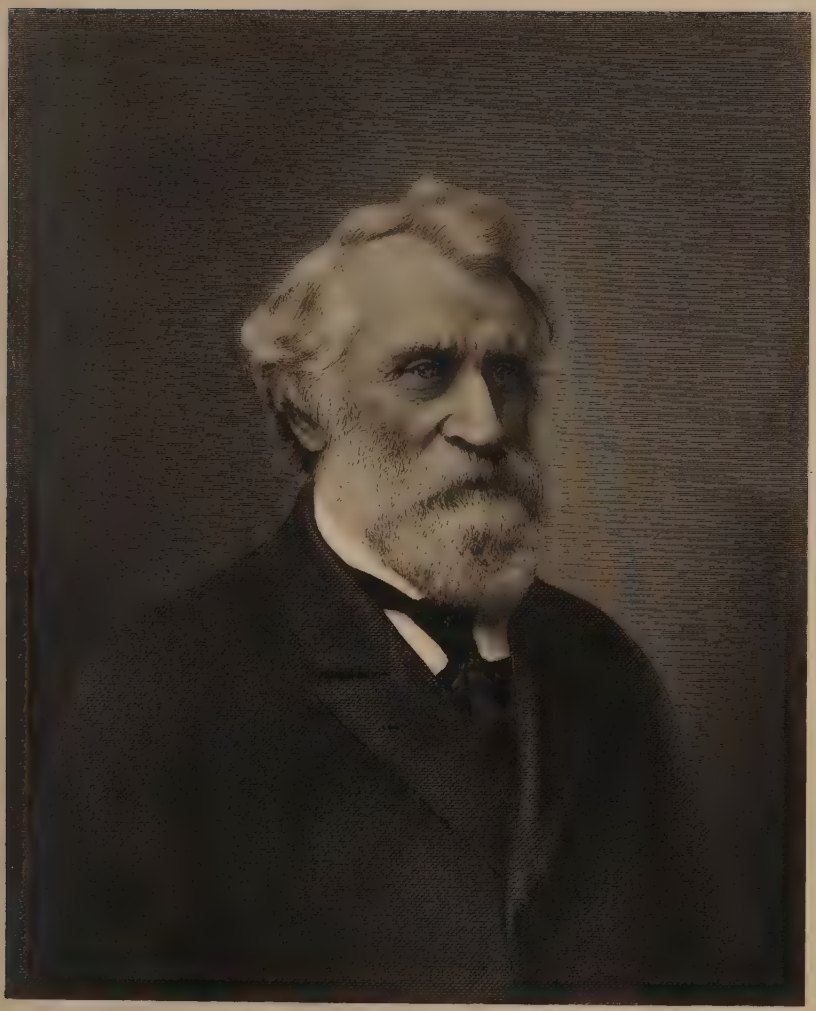
Isaac Pendleton was a native of Oxford, Chenango county, New York, and there received an excellent common school and academic education. At his home he also studied law and was admitted to the bar. He removed to Sioux City about 1855, and entered upon the practice of his profession with quite more than the average success in securing business and maintaining himself in the practice. He was in 1865 elevated to the bench of the district court, the duties of which he discharged with decided ability for the full term, and then returned again to the practice, in which he was always very strong.

John L. Dana was a native of Ohio, where he was thoroughly educated, including a full course in and graduation from Oberlin College. Thereafter he graduated at the law department of the Ohio University. After devoting some time to a trip to California, following the gold excitement there, he returned and located at Nevada, Iowa, in 1855, and engaged in the practice of the law, wherein he was from the first successful. The requirements of a county-seat of a comparatively new county, in the strict lines of the law, are not very extended. Mr. Dana was a thoroughly conscientious man and lawyer, as well as a faithful citizen, and he has maintained himself well in his profession. He has represented his district in the house of representatives of the state legislature and also in the senate, in both of which lines of services he exhibited the same characteristics of industry and fidelity. He has taken an active part in educational matters in his village and county, and is recognized as one of the early and devoted friends of the State Agricultural College.

John Scott was a native of Ohio, where he obtained a very excellent education in the common schools of that state. This very thorough basic education was much enlarged and broadened by teaching, not alone common schools, but academic courses, for several years. He came to Iowa in 1843, but returned to Ohio and went thence to Kentucky, where he prosecuted his work of teaching. In 1846 he volunteered for service in the Mexican War. He met with arduous service there, and in 1847, he, with seventy others, among whom was Cassius M. Clay, were taken prisoners and marched to the City of Mexico and held as prisoners there for over eight months. He returned to Kentucky in 1852, and for two years or more was editor of a leading Whig paper in that state, during which time, and for a period after, he prosecuted the study of the law. He removed to Iowa in 1856, and settled at Nevada, where he engaged in the practice of the law, and

more or less in real estate and in farming. The demands for strict professional work in a new county town in Iowa at that date were not very excessive and Colonel Scott's taste led him to the collateral pursuits suggested in connection with the law. He had recognition as among the very first of the profession in his county, and as a counselor, as well as a trial lawyer, was not outranked by any of his brethren. In 1859 he was elected to the state senate from his district and served in the regular session of 1860 and also in the special session of 1861, and then resigned to enter the military service in the Union army. He was made lieutenant-colonel of the Third regiment of infantry, and was in command of the regiment at the battle of Blue Mills, and much of the time of his connection with it. In 1862, he was promoted to colonel of the Thirty-second infantry, with which he served until May, 1864, and in the meantime was engaged in many battles. In 1867 he was elected lieutenant-governor of Iowa, and he served the full term of two years. As a legislator and as a presiding officer of the senate, Colonel Scott was not excelled. He has been president of the State Agricultural Society, and indeed in agricultural and stock interests had no superiors and few equals. Colonel Scott has done much to advance the interests of the state and his career as a lawyer, soldier, legislator and agriculturist has been, not only successful, but most enviable. As a citizen of dignity and influence, he was not surpassed.

John R. Barcroft was also a native of Ohio, where he obtained a good common school and academic education, and was also a student at the Ohio University. He studied law also in Ohio, and was admitted to the bar in 1847, locating in the practice at Millersburg in that state. Mr. Barcroft was endowed with that type of mind which led him to the thorough study of that which he undertook, and his thoroughness of study brought to him a satisfactory practice, so that he continued there in that practice



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J R Bascroft

till 1864, attaining a most excellent reputation, as well as acquiring more profound knowledge of the law. He removed that year to Iowa, locating first at Oskaloosa, where he remained for about a year, and then removed to Des Moines and settled permanently there. At his new location he secured at once a recognition as an able, experienced and industrious lawyer. Mr. Barcroft in his practice, much of which was with partners, and which was continued at Des Moines for about thirty-five years, attained and maintained a standing and reputation for ability, industry and fidelity surpassed by none. His influence as a citizen was most healthful and potent.

Geo. W. Ruddick was born in New York and obtained there and in the state of Ohio a thorough literary education, and he pursued the study of law at the Albany Law School. He was admitted to the bar in 1856, and soon after admission he located at Waverly, Iowa. His success in securing business and in its prompt, efficient and satisfactory discharge was good. His success in his profession attracted attention to him, and he was in 1860 elected a member of the house of representatives of the general assembly, and he served with efficiency and prominence therein. He continued the practice, but was made county judge of Bremer county for one term. He afterwards, in 1859 to 1871, served as circuit judge of the Twelfth judicial district, and from the latter date to 1893 he served as district judge in the Twelfth judicial district, making his entire service upon the bench nearly one-quarter of a century. Judge Ruddick's ability as a man and his thorough culture in the law, together with a judicial temper of mind, made him one of the most successful and satisfactory judges in the state. He was always faithful, impartial and upright, and commanded the respect of the litigants and all others in his district.

Thomas M. Fee was a native of Ohio, but at an early age he removed with his parents to Illinois, where he re-

ceived a good primary education, and he further continued his studies while engaged in teaching in Iowa. He taught school and read law at Ottumwa, and was there admitted to the bar. In May, 1862, he located at Centerville, and directly thereafter enlisted as a private in Company G of the Thirty-sixth Iowa Infantry. He was promoted to captain, and served with his regiment to the close of the war, having had the misfortune of being a prisoner at Tyler, in Texas, for ten months of the time. At the close of his service he returned to Centerville and engaged in the practice of the law. From 1875 to 1879 he served as district attorney for the Second judicial district, the duties of which office he discharged with great energy, efficiency and success. In 1894 he was elected to the district bench of his judicial district, and he served thereon most satisfactorily and ably for that term and the following term, to which he was re-elected. Judge Fee was distinguished for his great industry and fidelity to his duties on the bench, which were also discharged with ability and conceded integrity. At the close of his term as district judge he returned to and resumed his practice at the bar, and enjoys the respect and considerate regard of all his acquaintances.

John C. Cook was also a native of Ohio, where he received a most thorough common school, academic and college education. He also studied law there, and was admitted to the bar in 1867. He removed to Iowa and located first at Newton, where he began the practice of his profession, in which he grew rapidly to an enviable prominence. In 1878 he was elected district judge of the Sixth judicial district of Iowa, and served for one term. He was then elected to congress from the Sixth congressional district, and was re-elected to the second term, both of which he served with very decided and recognized ability. After that he became attorney for the Chicago and North-Western Railway Company, and soon secured the reputation as

one of the best railroad attorneys in the state. Afterwards he accepted the general attorneyship for Iowa from the Chicago, Milwaukee & St. Paul Railway, and has won for himself a reputation as a railroad attorney second to no lawyer in the state. His success has been most phenomenal. Indeed Judge Cook, with his extended and versatile experiences, his thorough knowledge of human nature, together with his full acquaintance and familiarity with railroad law in its every phase, is abundantly well panoplied for the success he has attained and the reputation he enjoys.

David Ryan was a native of New York, and was there educated to the extent obtainable in the public schools, and later, after coming to Iowa, he attended the Central University at Pella, but before he graduated he enlisted as a private in Company E of the Eighth Iowa Infantry, which was in September, 1861. He was made first lieutenant of his company at once, and in 1863 was promoted to captain. The following year, he was made colonel of the Second West Tennessee regiment of white soldiers, and served in that capacity till the close of the war. He participated in every battle of his regiment, and was captured at Shiloh, and after being held a prisoner for more than six months, was exchanged at Richmond, Virginia. On his return from the war he graduated from Central University and also from the law department of the Iowa State University, in the second class thereof, 1867. He located at Newton and began a practice which he conducted with great success for approximately twenty years. In 1886 he was elected judge of the Sixth judicial district, and was twice re-elected, serving most faithfully and acceptably, with recognized ability and integrity, for twelve years. At the close of his three terms of judicial service he removed to Des Moines and resumed the practice of the law there, wherein he was most successful until his death.

Almon R. Dewey is a native of Ohio, where he was educated in the public schools, and later in the college at Hiram, from which he graduated in 1865. He enlisted in Company D, One hundred and third Ohio Infantry, in August, 1863. After his military service and graduation at college, he engaged for a time in agricultural pursuits. In 1868 he entered upon the study of the law, and was admitted to the bar the following year, and opened an office at Washington, Iowa, where he continued the active practice of the law for nearly twenty years, attaining the full average measure of success. In 1890 he was elected to the district bench, whereon he served for that and two successive terms, to which he was re-elected, making twelve years of continuous judicial service. Judge Dewey was a man of very ready perceptive capacities, and was given to prompt rendition of opinion upon the submission of any question to him. At the close of his service on the bench, which was most acceptable, he returned to the practice and received his full share of the business; but his career was prematurely closed by death. Judge Dewey left a most enviable reputation as a lawyer, a judge and a citizen.

Wm. H. Tedford, a native of Tennessee, from which state he removed with his father's family to Louisa county, Iowa, when a mere boy, obtained his education in the public schools of Iowa during his boyhood, but enlisted in September, 1861, when but sixteen years of age, in Company F, Eleventh Iowa Infantry and served the full term of four years, participating in many of the great battles of the western army. After his return he prosecuted his literary studies in the academy at Grand View, and after completing the academic course he attended the law department of the State University, from which he graduated in 1869, the fourth class of the university school. He located at Corydon and began practice alone, in which he made a very decided success. He continued the practice

E. B. SOPER.

with quite more than average success, indeed with phenomenal success, with partners and alone for nearly twenty years. He was a close student, and was possessed of more than the average readiness of apprehension, by which two characteristics he was enabled to attain quite more than average success. He was engaged in nearly every important case in his county during his practice. In 1890 he was elected judge of the Third judicial district, and was twice re-elected to the same position, and he served with great fidelity and satisfaction. Judge Tedford had recognition as a sterling man, a thoroughly cultured lawyer and a faithful and upright judge. His influence was always for good.

Erastus B. Soper was born in Chenango county, New York, and removed with his parents to Iowa when a mere boy. He received a good common school education and a thorough preparatory course at Western (now Leander Clark) College. His studies at the latter institution, however, were interrupted by his volunteering as a private in Company K of the First Iowa Infantry, and after his service for three months, the term of enlistment for that regiment, he re-enlisted in Company D, Twelfth Iowa Infantry, and served through the entire war, till December 1865, being repeatedly promoted and attaining the captaincy of his company. Upon his return from the war he entered Cornell College, from which he graduated with full honors in 1868. He taught for a time in Cornell College, studying law also, and was admitted to practice in 1871. He located at Emmetsburg, and has been continuously engaged in the largest and most lucrative practice in that part of the state, from that time until now. Mr. Soper is confessedly a very able, practical and upright man and lawyer. No one in the profession enjoys a more enviable reputation than he. He is potent and controlling in all the associations for the uplift of his fellows in his locality.

CHAPTER XXX.

RETIREMENT OF JUDGE LOWE, ACCESSION OF JUDGE BECK, NOTICE, ETC.

During the latter part of the term and month of December, 1867, there was decided by the supreme court the case of Pierce v. Walker (23 Iowa, 424), involving the right of mail contractors to assign the contracts for carrying mails, which the assignor had entered into with the United States. Such an assignment had been made, and by reason of the alleged failure to perform such contract, the plaintiff brought suit for damages and recovered the sum of four thousand three hundred and fifty dollars upon a verdict of a jury. The defendant appealed. Shiras, Ballou and VanDuzee were the attorneys for the appellant; O'Niel and Cragin and W. T. Barker for the appellee. Lowe, Chief Justice, prepared the opinion of the court, wherein it was held that a person who has a contract with the postoffice department for carrying mails may legally stipulate with another to perform his part, subject to the regulations of the department. Though, if this is done without the consent of the department to the change of parties, it leaves the original contractor and his sureties liable to the government for any default in the performance; but as between the original and subcontractor, the latter would be liable to the former for damages sustained by his failure to perform.

This opinion was filed December 16, 1867, and the services of Judge Lowe as chief justice closed on December 31, two weeks thereafter, and also closed his connection with the court, after a service of eight years, during which time he had shown his marked ability, his extended and thorough knowledge of the law, his abiding and un-

questioned integrity and his unbounded love for justice. Judge Lowe was always inclined to either extend or restrain the law, when such action would result in what was recognized as substantial justice. Judge Lowe and Judge Wright had been acquaintances at that time for substantially a quarter of a century, had practiced law at the same bars and resided in adjoining counties much of the time, and each had tried cases before the other, acting as judge, —Lowe as district judge, and Wright as judge of the supreme court. Their friendship was always strong and their respect and esteem for each other unlimited. It frequently happened during the discussions at the consultation table that Judge Wright, whose admiration for the rules and certainty of the law seemed at times to make him appear to be unmindful of the abstract justice for which Judge Lowe was so tenacious, would in the heat of the discussion advance the statement of the rule of law governing the case and insist upon its application, and Judge Lowe would say to him, "Now George that is sticking in the bark; why will you stick in the bark, George, you know you always would do that. Why can't you see these parties as they are and give to them justice and equity." In describing the difference between the two men as judges, I have illustrated it by saying that when the legal axe was falling to sever the head of its victim from its body, Judge Lowe would be in a resistless tremor to save the victim from his fate, while Judge Wright would sit back with complacency and admire the symmetry and certainty of the law.

Judge Lowe was justly distinguished for his personal purity, great goodness and love of equity. He was a most delightful associate on the bench and, notwithstanding his high character for personal goodness and kindness, he would, nevertheless, maintain with great vehemence and persistence a position which he deemed to be right and just, and was in fact no more ready to yield his opinions

to his associates than any other member of the bench; but he could never be provoked into the manifestation of the slightest degree of anger because of the vigorous or heated manner of a brother judge in combating his positions. My service with him on the bench was limited to four years, during all of which time Judge Lowe was the same quiet, pure, kind man, considerate of his associates, and never for a moment departed from the line of right or courtesy. Not a word occurred during the whole time at all evincive of anything other than of the highest regard for his associates.

At the election in the fall of 1867, Judge Beck was elected to succeed Judge Lowe upon the bench of the supreme court, and he entered upon his duties as such judge on the first of January, 1868.

Joseph M. Beck was born in Clermont county, Ohio, and was educated in the schools of that state, and graduated at Hanover College, thus rounding out a very thorough course of literary culture. After his graduation he taught school, and was principal of a seminary at Vernon, Indiana, for a year or more, and then taught two years or more in Kentucky. He read law in the office of eminent lawyers of Madison, Indiana, and was there admitted to the bar in 1846. The next year he moved to Iowa, locating first at Montrose, where he engaged in the practice for two years or more, and in 1850 removed to Fort Madison, where he settled permanently in the practice. He was elected prosecuting attorney in 1852, and served in that office with skill and efficiency. His practice was quite extended from that time on, and his employment was in the main connected with causes of importance and involving questions of doubt and difficulty. With perhaps the single exception of a partner for a few years, his practice was mainly in his own individual name. At that time the bar of Lee county had recognition and was doubtless the strongest bar in the state. The high distinction

Joseph M. Beck

which several members of the then Lee county bar have since attained is a complete vindication of this statement. It is but a fair statement of the relative positions of these members of the bar to state that Joseph M. Beck maintained his standing well nigh to the front of this then very bright galaxy of lawyers. His residence was substantially midway between Keokuk, the stronghold of lawyers in the early history of the state, and Burlington, another like stronghold, which brought him in competition with the two strong bars, and thereby stimulated him to that measure of diligence and investigation which developed him into a strong and thorough lawyer.

Judge Beck was possessed of a broad mental endowment. His mind did not move as rapidly as with some lawyers, nor was his apprehension above the average in readiness or promptness, but after he had apprehended and fully possessed himself of the case in all its bearings, his mental power was competent to a safe and sound solution of it. Its complication or profundity would not at all interfere with the correctness of this statement. Judge Beck was a man of strong convictions in religion, in law, in politics, and in affairs of practical life. These convictions possessed him to such a degree as that it was often difficult for him to free himself from them and take even a more practical, comprehensive and equable view of them. These, if anything did, may have sometimes operated to mar the uniformity of the great excellence of his judgments or opinions. He was a very upright judge and pure man, and would not consciously or wittingly do a harm or injustice to anyone. Judge Beck's service on the bench continued for three successive re-elections, making his whole term of service a full twenty-four years. He was a faithful and industrious judge, and yet neither Judge Beck nor Judge Lowe, while they gave close and thorough attention to the cases in which they prepared the opinions, took that interest in or careful oversight of all

the cases decided by the court which so markedly characterized Judge Wright and Judge Dillon. Sometimes it would happen that Judge Beck's convictions in respect of a case assigned to him would lead him to write an opinion reaching a different conclusion from that determined by the bench in consultation, and in such case it was quite impossible to persuade him to change his opinion so as to conform to the views reached in consultation; but he would make such slight changes therein as to adapt the opinion to a dissenting opinion from that which should be written by some other judge reaching the result determined by the bench. After two years, and when Judge Dillon and Judge Wright had left the bench, it was almost uniformly determined that Cole, Justice, should write the opinion reached in consultation, which he did, and for this reason Judge Beck's dissents are almost always from opinions prepared by Cole, Justice; yet it was true that in other differences among the members of the court, Judge Cole was more generally in unison with Judge Beck than any other one of the judges. It must be true that Judge Beck has made his impress upon the jurisprudence of the state in a very marked degree.

During the first term of court in which Judge Beck was a member of it, the case of McCord v. High (24 Iowa, 336) was decided by the court, involving somewhat riparian rights, and in which the opinion was prepared by Beck, Justice. Space prevents an extended discussion of the opinion, and limits to two or three brief statements of points ruled. The case, however, is fairly a leading case, and is well worthy of close and critical examination. It was decided that the owner of lands over which a stream of water flows has a right thereto, without diversion, interruption or diminution; and this right is in the nature of a freehold-right, which cannot be taken for public use without just compensation; that the construction by a road supervisor of a crossing to a stream over which a

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highway passes is a ministerial act, and not judicial, although it involves discretion, and must be so performed as that a person through whose lands the stream meanders will not be injured thereby in the diversion or diminution of the stream; that the doctrine that municipal corporations are liable for the negligent construction of repairs and improvements of streets is sound, and is recognized, and this doctrine is held applicable in determining that road supervisors are liable for the diversion of a stream by the negligent construction of a crossing thereover; and that where a public officer, other than a judicial one, does an act directly invasive of the private rights of another, and there is otherwise no remedy for the injury, such officer is personally liable without proof of malice or intent to injure. Boies & Allen were attorneys for the appellant, the plaintiff, and Powers & Hemenway for the appellee, the defendant.

Herman C. Hemenway, the partner of J. B. Powers, of whom we have before spoken, was a native of New York, where he acquired a good education, and where he studied law and was admitted to the bar. He located first at Independence in the spring of 1861, but shortly thereafter volunteered and entered the service in the Twenty-seventh infantry and served three full years. At the close of his service he settled at Cedar Falls and resumed the practice of the law. He was successful in the practice in every way, having a good business and giving to it good attention, and he continued in the practice for many years. In 1875 he was elected representative in the sixteenth general assembly, and in 1877 was elected to the senate, and during his six years of legislative service he established a reputation for an efficient, sound and progressive legislator.

Horace Boies, the partner in the firm of attorneys for appellant, was born in Erie county, New York, and received a good common school education, which in that

state is of a high grade. While only sixteen he went to Wisconsin for a time, but returned to his home and decided to study the law. He prosecuted the study and was admitted to the bar and practiced for some time there, during which time he was elected as a member of the legislature of New York, wherein he served one term. In 1856 he removed to Waterloo, Iowa, and entered the practice of the law there. His success was very marked from the beginning; for his thorough knowledge of the law, his experience and practice therein and in legislation, gave him an advantage which showed itself in the extent of his business and in its high character. Mr. Boies is a man of a high order of intellect, a thorough student and of extensive reading. His appearance in the supreme court and in the argument of cases there gave to him an enviable standing. He had been a life-long republican, but because of the prohibition doctrine advocated by the republican party in Iowa, he declined to co-operate with it, and in 1880 was the democratic candidate for governor of Iowa, was elected, served that term and was re-elected for a second term. His administration of the executive office was of a high order. He failed, however, to demolish the prohibition doctrine which alienated him from the republican party and his candidacy for a third term was unsuccessful. As a man of decided ability, of purity of life, and aiding in the uplift of his fellow man, Governor Boies stands most deservedly high and well approved. As a lawyer, as well as chief executive, he has made his impress upon the jurisprudence and legislation of Iowa. **H. B. Allen,** his partner, was engaged in the practice of the law for many years in that county and district, and maintained a high standing in his profession, not only as a lawyer, but as a most excellent man.

James M. Love, a native of Virginia, removed with his father's family, when a boy, to Ohio, and there obtained a good education and studied law with an older

Horace Boies

brother. When the war with Mexico began, he volunteered and was elected captain of a company and served as such through the war. In 1850 he removed to Iowa and located at Keokuk, where he engaged in the practice of the law. He formed a partnership with Samuel F. Miller, which continued for some time, and their business was excellent. The subsequent career of each of the partners would banish any doubt as to this statement. In 1852 he was elected to the state senate and served his full term and was made chairman of the judiciary committee, a clear evidence of his recognized ability and standing. He was appointed in 1855 judge of the United States district court for Iowa, a position which he held during his entire life, and in which he gained a very high and enviable reputation,—his opinions almost uniformly standing the test of review by the supreme court. Judge Love was not only well read and thoroughly grounded in the law, but he was possessed of an original mind, that is to say, he would, from his own learning and powers of logic, evolve within himself a correct solution of a proposition of law, without reference to authorities. Most of us, in the presentation of a cause to a court, examine extensively reliable authorities and gather light from them and then reflect that light upon the court; but Judge Love shed internal light upon a question presented to him, and its soundness would be readily recognized and approved. No man stood higher with the bench, the bar or the people than Judge James M. Love.

Samuel W. Summers was also, like Judge Love, born in Virginia, and in the same year, 1820. He studied law there and was admitted to the bar, struggling against the adversities of the want of both means and opportunities. In 1842 he removed to Iowa, locating in Van Buren county, but, finding the practice not lucrative there, removed to Ottumwa, where he built up a good and successful practice. In 1863 he was appointed colonel of the Sev-

enth Iowa Cavalry, which position he held with approval, and rendered faithful service for about two years, when he resigned. He then returned to the bar and continued his practice, which was upon its best lines. His seniority, ability, legal learning and experience brought to him not only the best practice, but enabled him to attain a standing at the bar most enviable.

CHAPTER XXXI.

NOTICE OF ATTORNEYS, ETC.

Edward H. Stiles was born in Connecticut, where he received a liberal New England education, and thereafter studied law. In 1856 he removed to Iowa and located at Ottumwa, where he further pursued the study of the law with Colonel Summers, and, on admission to the bar, formed a partnership with his principal in the practice of law, upon which he entered at once, under the most favorable auspices. In 1859 he was elected city solicitor of Ottumwa, the duties of which he performed with efficiency and approval. The next year he was made county attorney. In 1863 he was elected representative in the Tenth general assembly, and at the close of his term as such was elected to the state senate. During all this time he was most industriously and successfully engaged in the practice of the law, wherein he established a high reputation. Mr. Stiles' legislative service was laborious, for he was appointed on leading standing committees and also chairman of a special committee of inquiry respecting the swamp land funds, in connection with each of which he was the most efficient member and worker. His high order of ability, untiring industry and great energy gave him a leading place, and often the most laborious place, among his associates. In 1865 he was elected reporter

for the supreme court, and thereupon he resigned his office of senator and devoted largely of his time to the duties of reporter, continuing, however, his practice, and even enlarging it in the supreme court. As a reporter of the decisions of the supreme court, of which he edited and published fifteen volumes, Mr. Stiles has had no superior. His industry, penetration, and unusual power of correct analysis enabled him to discharge the duties of reporter with great acceptance to the court and bar. He was re-elected for the second term but absolutely refused a third.

He also prepared and published four volumes of digest of the decisions of the Iowa supreme court. It is abundantly true that Mr. Stiles, by his practice at the bar, his services in the legislature, and his legal authorship, has impressed himself markedly upon the jurisprudence and legislation of this state.

About 1885 Mr. Stiles removed to Kansas City and entered the practice there and soon became recognized as among the leaders of the bar of that city and state. Mr. Stiles' correct life added much to his influence, which was always healthful.

Edward L. Burton was a native of New York, where he received a thorough common school and academic education. He studied law there and also in the law school of Professor Fowler at Ballston Springs, New York. His father was a prominent lawyer in New York, and one of his brothers also attained prominence there. In 1855 Mr. Burton removed to Iowa, locating first at Lancaster, where he was admitted to the bar and entered and continued the practice for some four years, and then removed to Ottumwa and formed a partnership with Judge Henry B. Hendershott, one of the most eminent judges and attorneys in that part of the state. This partnership lasted for twelve years, and was the leading firm of the county and district. In 1872 Mr. Burton formed a partnership with Edward H. Stiles, the subject of the preceding no-

tice, and the firm of Stiles & Burton at once entered upon a most desirable and lucrative practice and was recognized as one of the leading firms in that district and part of the state. Mr. Burton was possessed of a very penetrating and logical mind, and his arguments to the court upon questions of law were always able, and commanded respect and consideration. He was not surpassed by any lawyer at the bar in his district in these lines. He was also strong before a jury, although he was recognized as more thoroughly at home and potent in discussing legal questions. In 1878 Mr. Burton went upon the bench of the district court for his district, and very soon became recognized as not only an able and impartial judge, but as one of the leading and most acceptable judges of the state. He continued on the bench for many years, and maintained himself fully in the confidence of the bar and the people of his district and state.

Hugh W. Maxwell was a native of Illinois, where he was well educated, including a college course at the Georgetown Seminary, from which he graduated in 1862. The next year he went to Indianola, Iowa, and taught school for a time, and was in 1854 elected clerk of the district court, and served well and acceptably as such for five years, during which time he studied law, and at the close of his clerkship was admitted to the bar. He was in the army for about one year, during which time he was brigade commissary. In 1864 he returned to Indianola and resumed the practice of the law, and continued a successful and paying practice until late in 1866, when he was appointed judge of the district court to fill the vacancy caused by the death of Judge J. H. Gray. He was elected for a term of four years, and in 1870 was re-elected for another term, and he served upon the bench for between eight and nine years. His district embraced the capital county and five other counties, and he was kept most diligently at work, during nearly the entire time. Judge

Maxwell made no claim to exhaustive or profound knowledge of the law, but he did have a comprehensive and practical knowledge which, together with his native good judgment and unswerving integrity, made his administration on the bench most acceptable. He was a Christian man, and all his influence was for the right everywhere.

Lewis Todhunter was a native of Ohio, and received his education in the public schools of Ohio, and also of Indiana. Much later, he studied law, and was admitted to the bar in Ohio in 1850, when he removed to Indianola and made his permanent home there, where he began and continued the practice of the law. Mr. Todhunter was a good practical lawyer in the class of cases which he accepted. He did not seek difficult or involved cases, but his good practical common sense, together with his knowledge of the law, which was greatly extended by his experience, he may well be recognized as a successful lawyer. He was prosecuting attorney for his county for one term, and was a distinguished member of the constitutional convention of 1857, which formed the present constitution of Iowa. Although exempt from military service by his age, he tendered his services in the Civil War, which were accepted, and he was made quarter-master of the Twenty-eighth Iowa infantry. Mr. Todhunter was a Christian man, intensely devoted to temperance, and has most assuredly impressed himself upon the jurisprudence of the state through his services at the bar, in the constitutional convention, and in efforts for the moral uplift of the people of his county and district.

P. Gad Bryan was a lawyer in Indianola, contemporaneous with Judge Maxwell, Lewis Todhunter and others. Mr. Bryan was a man of a good thorough literary education, and was well read in the law. He engaged in the practice at Indianola about 1855, and continued practice there for many years. He was district attorney for his judicial district for one term, and discharged the duties

of his office with efficiency and fidelity. He had a good legal mind, and was quite more than usually successful. His wit and humor were decided aids to him in the practice. He was in the military service and was faithful therein. He was not especially industrious nor very diligent, and yet he would try a case in that apparently loose, irregular and easy manner, and get out before the jury every fact more completely than any other man of like methods whom I have ever known, and he was, therefore, a most dangerous competitor. In the absence of any data respecting his biography we may submit, as a specimen of his humor, a statement made by him on a visit to his friends in the capital city, to the effect that, some time before, they had had in Indianola a series of revival meetings in charge of the Methodist denomination, and that himself and several of his associates, well known, whom he named, had been converted and joined the church for six months, on trial, and that they had all of them done so well that the church let them off at the end of two months. Mr. Bryan was an upright exemplary citizen, and his influence was for good.

Harry McNiel went to Indianola much later, having studied law in Des Moines, and, having been one of the most faithful and industrious students possible, he acquired a good knowledge of the law; and while the circumstances attending his entrance upon the practice at Indianola were not especially encouraging, yet his diligence, knowledge and fidelity brought to him a measure of success in his profession and in the financial world, quite equal to any of his associates. He is a man of integrity, of ability, and of very decided industry and diligence. His influence in every way has been for good.

Wm. H. Berry, coming to this state from Illinois, located at Indianola later than the subject of the previous notice, and indeed pursued his literary studies in Simpson College there. He studied law at Indianola, and practiced

it successfully there for twelve years or more as partner with J. H. Henderson, and later by himself. He was elected to the state senate in 1895, and served the full term with acceptability and efficiency. Mr. Berry is a very industrious, careful and painstaking lawyer and has, by these characteristics, not only built up a large and profitable practice, but has established a reputation for fidelity and usefulness which is most excellent. He has been very active in his aid to Simpson College; and while in the senate took a prominent part in codifying the laws and in establishing the state board of control. He is still engaged in the practice and fully maintains himself in that and in the spheres of usefulness to which he has devoted himself in that community.

CHAPTER XXXII.

REVIEW OF CASES, NOTICES OF ATTORNEYS, ETC.

In the June term, 1868, there was decided by the court a case in the criminal law entitled The State v. Felter (25 Iowa, 67), where the indictment charged murder in the first degree. The case was very remarkable in its facts, most of which were undisputed. The defendant was a farmer, living with his wife and little daughter in the farm house quite distant from any neighboring house. On a morning, without any known cause except it may have been anger toward his wife for some act or neglect, the defendant killed his wife, and chased the daughter with evident purpose to kill her, but she escaped. He then set fire to his house and to the barn, burning severely the body of his then deceased wife, cut his throat and hid in the straw stacks, which were not entirely consumed. One defense was insanity. Upon the trial the defendant was

convicted of murder in the first degree, and was sentenced to imprisonment for life. On the appeal much attention was given to the defense of insanity. Dillon, chief justice, prepared the opinion, which is quite exhaustive, and discusses at length the rules respecting insanity, and announces in the opinion the instructions which might properly be given in the case as follows: "The jury, in substance, should be told that if the defendant's act in taking the life of his wife (if he did take it) was caused by mental disease or unsoundness, which dethroned his reason and judgment with respect to that act, which destroyed his power rationally to comprehend the nature and consequences of that act, and which, overpowering his will, irresistibly forced him to its commission, then he is not amenable to legal punishment. But if the jury believe from all the evidence and circumstances that the defendant was in the possession of a rational intellect or sound mind, and allowed his passions to escape control, then, though passion may for the time being have driven reason from her seat and usurped it, and have urged the defendant with a force at the moment irresistible to desperate acts, he cannot claim for such acts the protection of insanity.

"Whether passion or insanity was the ruling force and controlling agency which led to the homicide—in other words, whether the defendant's act was the insane act of an unsound mind, or the outburst of violent, reckless and uncontrolled passion in a mind not diseased—is the practical question which the jury should be told to determine according to their best judgment upon the evidence before them. If they believe that the homicide was the direct result or offspring of insanity, they should acquit; if of passion, unless it be an insane passion, they should convict. This is a much more practical inquiry than to direct their attention solely to the defendant's capacity at the time to distinguish right from wrong, an inquiry which

must often be speculative and difficult of determination from the data possible to be laid before the jury, and which as a test or criterion of responsibility rather belongs, when applicable, to what is known as intellectual, as distinguished from moral, insanity."

On a second trial, the defense failed to make any showing at all probable, that insanity was hereditary in the family, or that other members of the family had been singularly or at all affected with abnormal mental conditions, and the defendant was convicted of manslaughter. J. H. Murphy & Brother and I. M. Preston & Son were attorneys for the appellant and Henry O'Conner, attorney general, for the state.

The case of The State v. Squires (26 Iowa, 340), involving several constitutional questions, was decided at the December term, 1868, wherein the opinion was written by Cole, justice. The case was very ably argued, and the decision has been regarded as a leading one upon the power of the legislature to pass a legalizing act; the question of the validity of a statute embracing more than one subject and one not embraced in the title, and the power to pass retroactive laws. The record in the case presented very clearly and precisely these questions, and the opinion states concisely and perspicuously the basis whereon the act was held valid as against the three constitutional objections. D. S. Wilson and S. M. Pollock were attorneys for the appellant, and Shiras and Van Duzee attorneys for the appellee. Each of the counsel have been heretofore spoken of except Mr. Van Duzee, who was for many years a partner of Judge Shiras, and with them was associated a part of the time ex-Speaker David B. Henderson. Mr. Van Duzee was the office man of the firms, and was one of the most careful, painstaking, correct and efficient office lawyers practicing in the state. After Judge Shiras went upon the United States district bench, he with his characteristic good judgment appointed Mr. Van Duzee

clerk of his court, and the bar were then and thereafter greatly delighted with the appointment, and with the accurate and faithful services rendered by Mr. Van Duzee.

We have heretofore stated the case of French v. Rowe (15 Iowa, 563), involving the doctrine of estoppel, in which there was a dissenting opinion. We are tempted, for the purpose of showing the nicety of distinction which the legal mind sometimes will make, to here call attention to another case (Davidson v. Follett, 27 Iowa, 217), decided at the June term, 1869, in which the opinion was prepared by Wright, Justice. The case was this: An agent of the owner of real estate met a person holding liens and incumbrances thereon, for the purposes of paying and discharging the same. The agent asked for an exhibit of all liens and claims held by the creditor against the lands, and was informed by the latter that he had none other than those exhibited. These were paid by the agent, who again inquired if all liens were settled, and received an answer in the affirmative. The creditor at the time of this settlement held a certificate of tax sale which he did not exhibit, and upon which he subsequently obtained a tax deed for the land. Held, that he was estopped, by the facts connected with the settlement, from asserting title under this deed.

At the December term, 1869, a most interesting case (Ex parte Holman, 28 Iowa, 88), involving questions of conflict of jurisdiction between the state and federal courts was presented. The case was a petition for habeas corpus, wherein the petitioners for the writ were the supervisors for Lee county in the state of Iowa, and the writ was directed to the deputy United States marshal for the district of Iowa. The facts leading up to the issuance of the writ were, briefly, that one Thompson obtained judgment upon coupons attached to bonds issued by Lee county in payment for subscriptions to stock in a certain railroad corporation. He sued upon these coupons in the

United States courts for Iowa, and, after vigorous resistance, judgment was rendered against the county for the amount. Execution was issued upon this judgment, which being returned nulla bona, such proceedings were had further in the court as that, pursuant to the statutes of Iowa, the court issued an order directing the supervisors to levy and collect a tax to pay the judgment. The supervisors refused to obey this writ, and for this disobedience, a writ of attachment was issued, under which the supervisors were arrested; whereupon they brought a writ of habeas corpus before Beck, judge of the supreme court of Iowa, and upon the hearing at his chambers the defendants were discharged by Judge Beck; and from that order this appeal was taken. Upon the hearing of that appeal, the opinion was prepared by Dillon, chief justice. The case was ably argued, and the opinion is exhaustive, and decides many questions. The essential and pivotal point ruled was, that a person who is held in custody under an order issued by a court of the United States, in the regular course of procedure, is not entitled to be released on a writ of habeas corpus issued by a state court. A state court has no right to thus interfere with the proceedings and process of a federal court. Beck, justice, filed a very elaborate and exhaustive dissenting opinion, to which he attached a copy of his opinion at chambers. The case in the reports covers an hundred pages, and is well worthy of the attention of the student desiring thorough acquaintance with that question. The counsel in the case were Robert H. Gilmore, J. M. Casey, D. F. Miller and Francis Semple for the supervisors, and H. Scott Howell for the marshal.

Joseph M. Casey was born in Kentucky and was well educated, but he removed with his family when a boy to Iowa, where he studied law, and where he was admitted to the bar in 1847. He first settled in Keokuk county, where he built up a fine practice and was made county

judge. In 1861 he removed to Ft. Madison in Lee county, and he succeeded there very promptly in building up a good practice, and was recognized as the leader of the bar in his city. He was later made district judge for that first district, and he discharged the duties of that office with recognized integrity and ability. Judge Casey was a man of great moral worth, quite above the average in ability, and he exerted a potent influence for good not only upon the jurisprudence of the state, but upon the social and moral phases of his locality.

R. H. Gilmore was a leading and very prominent lawyer for many years in Keokuk. His partner a portion of the time of his extended practice there was Mr. Anderson, the firm being Gilmore & Anderson. They did a very large business, and Mr. Gilmore's arguments in the supreme court were seldom surpassed in point of thoroughness of presentation, soundness of positions and authorities in their support. We have before said that the bar of Keokuk was among the strongest, if not the very strongest bar in the territory or state, and Mr. Gilmore held a high place in that bar.

CHAPTER XXXIII.

JUDGE DILLON RETIRES, E. H. WILLIAMS APPOINTED, JUDGE MILLER AND JUDGE DAY COME TO THE COURT.

Francis Semple was one of the very earliest lawyers in Lee county, a man of very strong character and of originality of thought. His study of the law was not in his early youth nor with the idea of attaining a profound knowledge of the law, but he was possessed of such legal knowledge as, buttressed by his strong common sense

E H Williams

and sound natural judgment, made him a very strong and dangerous opponent at the bar.

In the fall of 1869 Judge Dillon was re-elected to his position as judge of the supreme court of the state. Before the first of January, at which time he would take his new office, there was much talk of his being made one of the nine new United States circuit judges to be appointed by President Grant under a then recent act of congress. In view of the great probability of his appointment, he delayed accepting the position until that probability ripened into a certainty, and then he notified the governor that he would not qualify under his re-election. Thereupon Governor Merrill appointed Elias H. Williams of Clayton county, judge of the supreme court to fill the vacancy existing by reason of the non-qualification of Judge Dillon.

Elias H. Williams was a native of Connecticut, where he received a good common school and academic education, and he afterwards graduated at Yale College. His advantages of education were unsurpassed. He also studied law in his native state, and his education, both literary and legal, was of the best. After attaining his majority he came west during the Black Hawk War, and was for a time in the military service in that war, and was stationed at Ft. Atkinson for a part of the time. He removed to Iowa in 1846 and located at Garnavillo, in Clayton county, and entered upon the practice of the law. He also engaged in farming to a considerable extent, having a natural taste therefor, and being so circumstanced as to be able to acquire a farm on which he could gratify that taste. At that time, too, the law business in a comparatively new county in the new state of Iowa was hardly sufficient to afford continuous employment to a studious and ambitious man. Indeed, Judge Williams, during his entire life and when other interests attracted his attention, never surrendered the association of the law and the

farm. To him such an association was a strengthening influence, each upon the other, and the superintending and directing of affairs upon the farm never dwarfed his appetite for the law, to which he was always closely wedded, and in the administration of which he took much interest and received much satisfaction. That he clung to the law with such tenacity as to grow in it and to impress the public with his growth and development therein, is verified by the fact that in 1858 he was elected judge of his, the Tenth judicial district, and he served on the bench with very excellent and unusual satisfaction. It may fairly be questioned whether the judge of any judicial district in Iowa enjoyed to a greater extent than did Judge Williams the high esteem and confidence of the bar and people of his district. At the close of the first term he was re-elected with great unanimity to a second term and, indeed, he was, in a judicial way, the monarch of his district. Judge Williams was endowed by nature with a high order of judicial talent, and was fortunate in the possession of a competence which enabled him to devote his time and attention to the administration of justice, in which he greatly delighted. His experiences in life and his competent surroundings may have given a tinge of imperiousness to his manner or tone of expression at times, yet no man was more considerate of the opinions of others than Judge Williams. He always gave patient hearing and deliberate attention to counsel in the argument of cases or questions before him, and this, together with his recognized ability, made him a superior judge. During the period of his service on the supreme bench, he was more or less embarrassed by the then peculiar conditions of certain railroad enterprises in which he was engaged, and in which he was afterwards very decidedly successful, to the great satisfaction and interest of the people of his district. He remained on the bench of the supreme court only a short time, having been appointed to fill a vacancy in

January, 1870, and having resigned in September of the same year.

Wm. E. Miller was appointed by the governor a judge of the supreme court to fill the vacancy caused by the resignation of Judge Williams. Judge Miller was born in Pennsylvania, of parents also born there. He was given a good common school education, with the advantage of select schools, which further advanced him in his literary culture. He also studied law there, and he removed to Iowa City in 1852, where he further prosecuted the study of the law, and he was admitted to the bar and began practice in 1853. In 1854 he was elected prosecuting attorney for that county, and he discharged the duties of that office with fidelity, care and satisfaction, continuing the practice of the law generally in connection with his duties as prosecuting attorney, each being a help to his growth in the knowledge of the law, as well as in experience. In 1858 he was elected judge of the Eighth judicial district, which district comprised seven of the most populous counties in the state. He discharged the duties of a nisi prius judge with very great thoroughness, deliberation and care, and gained an enviable reputation also for the dispatch of business before him. Before the expiration of his entire term as judge, in 1862, he resigned his judgship and volunteered in the military service and was made colonel of the Twenty-eighth Iowa infantry. He entered upon active service with his regiment, but on account of ill health he was practically compelled to resign the next year. He returned home and resumed the practice of the law, and, being a man of very industrious as well as studious habits, he entered upon the preparation of a treatise upon "Pleading and Practice in Iowa," which he completed and published, and which was at once the accepted authority in the Iowa courts. Contemporaneous with that work he continued the practice of the law and acquired a very excellent business therein. In 1869, the

legislature having organized circuit courts throughout the state, Judge Miller was elected judge of the circuit court of the Eighth judicial district, and he returned to the bench and rendered there the same considerate, careful and devoted attention to the business of that court which he had bestowed upon the business of the district court theretofore. Before his term had expired upon that bench, he was in 1870 appointed judge of the supreme court to the vacancy created by the resignation of Judge Williams, and he was at the succeeding fall election, in 1870, elected for the unexpired term, so that his service on the bench of the supreme court only lacked a few months of the full term of six years. Judge Miller devoted to the duties of judge of the supreme court the same studious, thorough and careful investigation of cases as he had shown on the district and circuit bench. He laid no claim to great profundity of learning, either in literature or the law, but he was in fact possessed of that practical and comprehensive learning in the law which, together with his painstaking care and consideration, made him of superior value to his associates as well as to the jurisprudence of the state. The writer hereof served with Judge Miller during his entire service on the bench and, from observation and experience in connection with such service, he is prepared to say that in the matter of the construction of contracts and of statutes, Judge Miller seemed to be possessed of a peculiar tact and capacity that rendered his opinions and consultations upon such cases of special and superior worth. He was an able, upright and most considerate judge, and his opinions invariably treat the cases in a practical, orderly and sequential manner, so that he carries the reader along with him in a continuous flow from the beginning to the ending. His predominant sense of justice, and his determination to administer it, seemed to open a plain path to the attainment of his purpose. He was a most excellent man in all his life.

The legislature of the state, at its session in January, 1870, chose Geo. G. Wright United States senator for the full term beginning on the fourth of March in the following year. Judge Wright accepted the senatorship and continued on the bench only till September following his election, when he resigned his position as judge of the supreme court, and Hon. James G. Day, then judge of the district court for the Third district, was appointed by the governor as his successor.

James G. Day was a native of Jefferson county, Ohio, where he received a good common school and academic education, which was further supplemented by a college course of three years, and thereafter added to by the teaching of graded schools for another three years. He read law for a time in a law office, and then attended the Cincinnati law school, wherefrom he graduated in 1856. In the year last named he removed to Iowa and located at Afton in Union county, where he entered at once upon the practice of the law, securing his fair share of the business, which he attended to in a close and faithful way. Shortly after his location at Afton he was called upon to serve as prosecuting attorney for one year, which he did with his characteristic fidelity. He continued the practice at Afton until 1860, when he removed to Sidney, in Fremont county, and entered the practice there in partnership with L. Lingenfelter and the firm had an excellent business, which was continued until the fall of 1861, when Mr. Day entered the military service as first lieutenant of Company F in the Fifteenth Iowa infantry. He was, however, very soon promoted to captain of Company I, and served faithfully with his company and regiment till April, 1862, when, in the battle of Shiloh, he was very seriously wounded, and by reason thereof was compelled to resign his position in the army. Before leaving the army, he was nominated for judge of the Third judicial district, wherein Sidney was situated, and was most triumphantly elected.

He recovered sufficiently to go upon the bench in January, 1863, and he administered the duties of judge with ability, dignity and impartiality, and became very popular as judge in his district and throughout the state. At the close of his first term he was re-elected for another term practically without any opposition. He served on that second term until August, 1870, when he was appointed judge of the supreme court to fill the vacancy caused by the resignation of Judge Wright, to accept the United States senatorship. At a state convention held in June preceding the date fixed for the taking effect of Judge Wright's resignation, Judge Day was nominated for the same vacancy to which the governor appointed him. As a judge of the district court, he was remarkable for his painstaking accuracy and clearness in the preparation of instructions to the jury. He was also very reasonably prompt in deciding questions of law submitted to him, and he never delayed trials for the purpose of taking time for the decision of current questions arising during such trials. His personnel was commanding, and he always presided with such dignity as assured order and decorum in the court room. He was never irritated in court during the progress of a trial or otherwise, nor did he indulge in any humor that would at all disturb the utmost propriety. As a judge of the supreme court he was always considerate of his associates, and gave the most faithful and industrious attention to the business. He was very thoroughly schooled in logic, and he would adhere to its proper and practical rules in the discussion of cases at the consultation table and in the preparation of opinions. It is characteristic of human nature that, having once expressed an opinion, that expression tends to fasten its author to what is thus expressed, and even a commission as judge of the supreme court would not free one from this characteristic. Judge Day, however, was more promptly obedient to his conscience, and his great desire to get at the very right would lead him

to say, when after consultation he had prepared an opinion, and had brought it back to be read for approval, and any member suggested that some phase or part of the opinion was in conflict with some previous opinion, "I did not examine that opinion, and it may be as suggested, and I would like permission to withdraw the opinion until I can investigate and I will present another opinion in its place." The natural characteristic above suggested would ordinarily prompt one to say, "I am familiar with the opinion referred to, and there is no conflict," or some other way, so as to avoid delay in settling the opinion or to avoid the labor of making the investigation. No man could be more faithful and attentive to his duties, which he always discharged with ability, fidelity and impartiality. He was a veritable, pure, Christian jurist. After retiring from the bench, he settled in Des Moines and returned to and resumed the practice of the law, wherein he was equally successful as in his services upon the bench.

After Judge Williams took his seat upon the bench as the successor of Judge Dillon, there was submitted to the court at the June term, 1870, a case entitled Good v. Clark (29 Iowa, 189), wherein the opinion was prepared by Williams, Justice. The case involved a very nice question respecting the power of a partner in a firm to bind that firm after dissolution as its agent by reason of his having been a member of it before its dissolution. Upon this question the court ruled as follows: A member of a partnership, after dissolution thereof, is authorized to defend, in the name of the partnership, a suit against the firm, to appeal from the judgment, and to procure surety on the appeal bond necessary for that end, and it was accordingly held that the members of the partnership are liable in such case to a surety on the appeal bond, who is afterwards compelled to pay the judgment. L. G. Palmer was attorney for the appellant, and Ambler & Babb were attorneys for the appellee.

CHAPTER XXXIV.

NOTICES OF ATTORNEYS, REVIEW OF CASES, ETC.

Leroy G. Palmer was born in Kentucky, but he removed with his father's family to Illinois in 1831, when a boy. He obtained his education mainly in Illinois, where he also read law with his brother, Hon. John M. Palmer, afterwards governor of Illinois and United States senator, and was admitted to the bar in 1846, and commenced practice at Carlinville. Soon after he commenced practice he entered the military service of the United States in the Mexican War, and after his return he resumed the practice. Late in 1847 he removed to Iowa and settled at Mt. Pleasant, where he began practice and continued in the practice with very exclusive attention thereto, and in which he made a marked success, obtaining recognition as one of the leaders of the bar in that part of the state. His continued attention to the practice was not interfered with during a long series of years, except to serve one term in the state senate, which he did with efficiency and distinction, and one term of two years as county judge of his county. His services in these two official positions were able and highly distinguished. He was a man of most excellent character, and has always wielded a potent influence for good.

Richard Ambler was a native of Pennsylvania, where he received a fair education in the local schools and afterwards studied law. He was admitted to the bar at Steubenville, Ohio. He removed to Iowa and settled at Mt. Pleasant in 1857, and there very readily established himself in the practice of the law. He practiced law continuously there down to his death. Mr. Ambler was a man of

marked ability, with great readiness of apprehension, with a vigorous and logical mind, and having rare capacities as an advocate. He had a high sense of professional honor and always conformed to it, and was conscientious and manly, and devoted in his service to his clients and to every duty coming to him. His son, **Henry A. Ambler,** was born in Henry county, received a university education, studied law and was admitted to the bar and became a partner of his father, and has followed well in the honorable path marked out for him. He is still engaged in a good practice and maintains the respect and confidence of his neighbors and of the people of that entire section of the state.

At the December term, 1870, of the supreme court, a case entitled Stewart v. Board of Supervisors of Polk County (30 Iowa, 9), which was then of supreme importance, came before the court for adjudication. It involved a constitutional question of the highest importance. The opinion was prepared by Miller, Justice, wherein was involved the question of the constitutional power of the legislature to authorize local municipalities to vote a tax in aid of a railroad being constructed through such municipality. The question was not whether a municipality, simply by being clothed with municipal corporate character and even with power to borrow money, could take stock in or aid in the construction of a railroad in or through such municipality, but the much broader question first above stated. The supreme court decided upon reasons and authorities very orderly, directly and cogently set forth in the opinion, that chapter 102 of the Laws of 1870, providing for the taxation of property in townships and incorporated towns and cities to aid in the construction of railroads, is not in conflict with the constitution of the state. Beck, Justice, dissenting. The opinion clearly and definitely marks out the distinction between the question presented in this case and that presented in the case

of Hanson v. Vernon, 27 Iowa, 28. Barcroft and Gatch (heretofore mentioned) were attorneys for the appellant and Polk and Hubbel (to be hereafter noticed) were attorneys for the appellee.

At the following term (June, 1871), a very interesting case entitled Miller v. Mut. Ben. Life Ins. Co. (31 Iowa, 216), involving questions connected with life insurance, was adjudicated by the court, in which the opinion was prepared by Day, Chief Justice, which is a very extended and exhaustive review of the questions upon principle and authority. It was decided by the court that notice to the agent of a life insurance company having authority to solicit, make out and forward applications for insurance, to deliver to the assured policies when returned, and to collect and transmit premiums, will operate as notice to the company, and it will be bound by acts done by him in respect to the business he is then transacting; that an untrue or fraudulent statement on the part of the applicant, of a fact material to the risk, will not prevent a recovery against a company if it or its agent, authorized as above stated, was informed and knew the truth in regard to such facts when it received the application and premium and issued the policy; that matters of warranty constitute a part of the contract, and it is necessary that they should be exactly and literally complied with, but matters of representation are but collateral to the contract, and it is sufficient if they are substantially complied with. The distinction between warranties and representations are pointed out in the opinion. The opinion also discusses the nature of the application; province of the jury; fraud; intemperance; construction of policy; etc., etc. Adams & Robinson were attorneys for the appellant, and DeWitt C. Cram and C. J. Rogers were attorneys for the appellee. Mr. Adams was afterwards one of the judges of the supreme court, and will be noticed in regular order.

DeWitt C. Cram, respecting whom we have no data,

was one of the lawyers settling in Dubuque about 1855 and engaging at once in the practice of the law. He was a man of very decided mental ability and legal learning. He was most industrious and carefully attentive to business, and built up, in the face of the strong opposition of that then strongest bar in the state, a good practice and an enviable reputation. He was vigorous, aggressive and most thoroughly practical and popular. While in the tide of prosperous business, he was overtaken with the misfortune of blindness, which of course limited his range of usefulness in the profession, and yet he devoted himself faithfully to it in the lines wherein he could be useful. A man of excellent character, having a strong hold upon his brothers in the profession and upon the community.

Chas. J. Rogers was a native of New York, where he received a thorough common school, academic and college education, supplemented by special studies in civil engineering, under the most eminent instructors. He studied law at the Boston Law School, and was admitted to the New York bar in 1853, and on removing to Davenport, in 1854, he was admitted to the bar there, and he remained in that county, engaged in the practice of the law, for about five years. He afterwards, in 1859, removed to Cedar Rapids, and was there engaged in the practice. He removed to Dubuque in 1861 and there continued the practice. In 1873 he was elected to the legislature, where he rendered most distinguished service.

A most interesting question was brought to the supreme court and submitted after the accession of the new judges to their seats, which involved a question of the right of the state courts to entertain jurisdiction of questions which might in other forms be fairly the subject of admiralty jurisdiction. It was a case of insurance upon property on a steamboat navigating the Mississippi river. The case was entitled The Home Ins. Co. v. N. W. Packet Co. (32 Iowa, 223). The opinion was prepared by Beck,

Justice, and therein it was held by the court that an action of law upon a bill of lading, to recover damages for the loss of property caused by a vessel navigating the Mississippi river, is not within the exclusive jurisdiction of the federal courts; that Article 3, Sec. 2, of the Constitution of the United States, conferring judicial power upon the federal courts in all cases of admiralty and maritime jurisdiction, does not deprive the state courts of jurisdiction in respect to the same subject-matter when exercised under other forms of proceeding; that the remedy sought, and character of proceeding adopted, and not the subject matter, limit the jurisdiction. If it be by an action at law or in chancery, according to the forms of the common law, instead of a proceeding in admiralty, the constitutional clause does not apply, and the state courts may exercise jurisdiction therein, concurrent with the United States admiralty courts. Section 9 of the Judiciary Act of congress of September 24, 1789, which, after providing that the district courts of the United States shall have original and exclusive cognizance in all cases of admiralty and maritime jurisdiction, saves to suitors in all cases the right of a common law remedy where the common law is competent to give it, is not in conflict with the clause of the constitution above referred to.

A question involving the measure of diligence requisite to be exercised by professional men, lawyers and doctors, in discharge of the duties arising in connection with their employment by the client or the patient, came before the supreme court at the June term 1872. The opinion in the case (Smothers v. Hanks, 34 Iowa, 286) was prepared by Cole, Justice. It was an action to recover of a physician for alleged negligence in the treatment of the plaintiff's arm after it had been fractured near the wrist. The court below instructed the jury, in substance, that the defendant was bound to such reasonable skill and diligence as are ordinarily exercised in the profession by thoroughly edu-

cated surgeons, having regard to the improvements and the advanced state of the profession at the time. In the opinion it is said: "We are not disposed in any degree, not even in the very least, to let down or lower the true standard of professional skill or diligence, either in medicine, law, or other applied science. But we recognize the fact that this standard must be a practical and attainable one, and not one of mere theory or fancied perfection, the enforcement of which would cause much litigation, and necessarily drive from the profession a large number of those from whose practice the largest measure of practical good is attained." "The true measure is that ordinarily exercised in the profession by the members thereof as a body; that is, the average of the reasonable skill and diligence ordinarily exercised by the profession as a whole. Not that exercised by the thoroughly educated; nor yet that exercised by the moderately educated, nor merely of the well educated, but the average of the thorough, the well and the moderate—all, in education, skill, diligence, etc. We do not stop to discuss critically the meaning of the term 'thoroughly educated;' nor is it necessary to prove that it means 'fully, completely, and perfectly educated,' or that it necessarily implies an entire and perfect knowledge. It is enough that it must mean that the standard of the skill and diligence was not the average of the whole body of the profession, or in other words, ordinary skill, but was that exercised by some defined or undefined portion of the profession, or in other words, more than mere ordinary skill. Of course, in determining this ordinary skill, regard should be had to the improvements and advanced state of the profession at the time the case was treated, for such regard is necessary in order to correctly ascertain the true standard of ordinary skill." Beck, Chief Justice, dissenting. Liston McMillen was attorney for the plaintiff and appellee; Seevers & Cutts for defendant and appellant.

Liston McMillen was a native of Ohio and was educated there, graduating from the Ohio Wesleyan University. He studied law in Iowa and was admitted to the bar here, and he located at Oskaloosa in the fall of 1869. He soon acquired a good practice and he continued therein for many years, making for himself a fine reputation. His fondness for literature and his marked ability as a writer and speaker opened for him the lecture field, wherein he also distinguished himself. His practice was always in the line of the observance of legal ethics, and his integrity naturally led him to the lecture field into the lines of ethical discussion.

Marcena E. Cutts, the partner of W. H. Seevers in the firm, was a native of Vermont, where he received a good education, and in 1855 he came to Poweshiek county, Iowa. He studied law, and was admitted to the bar there in 1858, and early in his practice he was elected prosecuting attorney for the county. He also served in the Seventh general assembly in the house, in 1861, and in 1863 he served in the senate for his district, his full term covering the Tenth and Eleventh general assemblies. He removed to Oskaloosa and was appointed, in 1872, attorney general of the state, to fill a vacancy in that office. He discharged the duties connected with these offices in a very active and efficient way, making an excellent reputation in each. Mr. Cutts was a very bright man, full of fire and antagonism, and he delighted, as well as excelled, in invective. His literary culture and his thorough knowledge of the law made him a most dangerous adversary. He was elected to congress in 1880, but his seat was successfully contested by Judge Cook. Mr. Cutts was, however, elected to the succeeding term, but died before its expiration.

Ezekiel E. Cooley, a native of New York, where he was well educated, and where he studied law, was admitted to the bar, and practiced for four or five years, after which, and in 1854, he removed to Decorah, Iowa, and began the

practice of the law there. He was well read in the law, a man of keen mental activities and useful in all matters pertaining to the uplift of the people in his locality. He also contributed much to the development of the material interests of his county and district. He built up and maintained a leading practice in his district and took rank as the peer of the best lawyers in it. His ability, integrity and public spirit were not only recognized by his neighbors and acquaintances, but they enabled him to contribute much to the educational and ethical interests of the people. He was prosecuting attorney for his district, and was a member of the house of representatives of the Seventh general assembly, wherein he rendered most valuable legislative service.

CHAPTER XXXV.

NOTICES OF ATTORNEYS, ETC.

John Leonard, a native of Ohio, where he was well educated in the common schools and also in the Granville College, studied law in Ohio, and was there admitted to the bar, and there engaged in the practice of the law for one or two years, after which, in 1853, he removed to Winterset, Iowa, where he entered upon the practice and soon acquired prominence. He devoted himself exclusively to the practice till 1862, when he was elected district attorney for his judicial district. In January, 1874, he was placed on the bench of the district court, the duties of which he administered with decided ability; his district embracing the city of Des Moines and including six counties. Judge Leonard was very clear and direct in his instructions to the jury, and he attained a special reputation therefor. His administration of the bench was dignified, able and acceptable.

Julius H. Powers was born in Vermont, but removed

in early boyhood, with his father's family, to Ohio, where he was educated, both in common school and academy. He studied law for two years or more while teaching, and later attended the Cincinnati Law School, from which he graduated, and he was admitted to the bar in 1855. In 1857 he removed to Iowa, opening a law office first at Forest City, and later, in 1858, he removed to New Hampton. His readiness of apprehension, his ever abiding industry and integrity, soon gave him rank as the leading lawyer of his county, and he continued in the practice there. In 1859 he was elected to the state senate, and he served as senator in the regular session of 1860 and the special or war session of 1861, rendering most efficient legislative service. He then resigned his position as senator and enlisted as a private in the Seventh Iowa Infantry, but was soon afterward made captain of Company I of the Ninth Infantry, and served till April, 1862, when by reason of disability he was mustered out. He returned to his home and resumed the practice of the law, in which he has been very especially successful.

John G. Patterson was a native of Pennsylvania, but moved with his father's family, in infancy, to Ohio, where, in the midst of struggles incident to pioneer life, he grew to manhood and acquired a fair education. This education was supplemented by teaching school, and later attending an academy in Seneca county. He began the study of law at Tiffin, and was admitted to the bar there in 1856. The next year he removed to Charles City, Iowa, where he entered upon the practice of the law, and with untiring diligence and large success he has continued its practice since. He was in partnership for some twelve years or more with Mr. S. B. Starr, and the firm of Starr & Patterson had universal recognition as one of the strong firms of the Cedar Valley. Mr. Patterson was elected to the state senate in 1863, and was re-elected in 1867, serving eight years, or four sessions, with great ability and marked suc-

cess in the legislation secured for his locality. Mr. Patterson is one of the strong men of the state, physically, mentally and legally. There are but few men who have enjoyed a more extended or successful practice than he.

John F. McJunkin was a native of Pennsylvania, where he obtained a good common school education, which was supplemented by extended teaching and concurrent study. He studied law also in his native state, and was there admitted to the bar. In 1859 he came to Iowa and located at Washington, where he entered upon the practice of his profession, and wherein he was favored with more than the average of success. In 1863 he was elected to the state senate and served a full term, covering the Tenth and Eleventh general assemblies. Mr. McJunkin was an able man with quite the average readiness of apprehension and more or less aggressive. He was active and aggressive in his legislative duties. He was the author of the joint resolution which was first adopted by the Iowa legislature, instructing our senators and representatives to support an amendment to the federal constitution for the entire abolition of slavery. In 1876 he was elected attorney general of the state, in which office he manifested much of ability and thoroughness of legal education. He was of great service to the supreme court, and attended to every duty with thoroughness and promptness. At the close of his first term he was re-elected to the second, and he attained a very high reputation in that office. He was a man of excellent character and of fine social qualities. He died shortly after the close of his service as attorney general.

Moses A. McCoid was born in Ohio, where he was well educated in the common schools and at Fairfield University. He was a graduate also of Washington College, Pennsylvania. He removed to Fairfield, Iowa, in 1858, and studied law there with Senator Wilson. He completed his studies in 1861, and was admitted to the bar, but very shortly thereafter he enlisted in Company E of

the Sixth Iowa Infantry. He took part in the battles of Ft. Donelson, Shiloh, Corinth, Bear Creek, Resaca and others, and was promoted to second lieutenant and then to adjutant. Upon his return from the war he engaged in the practice of his profession at Fairfield, which he continued, subject to public duties, till his death. In 1867 he was made district attorney for the Sixth district and he served with marked ability and great approval till 1871, when he was elected to the state senate, in which position he was continued for six years and rendered most efficient and satisfactory services. In 1878 he was elected to congress, and was twice thereafter re-elected, making his service in congress six years. As a lawyer Mr. McCoid was most industrious, painstaking and thorough. He was a man of broad native ability, of generous literary culture, and his experiences in life made him one of the strong men of the state. He was not only able, but he was industrious and always faithful. He attained a most excellent standing and recognition among the people of his district and of the state.

Thomas W. Newman was a native of Maryland, where he obtained a good common school education and a most thorough academic course. He also studied law in his native state, and was admitted to the bar in 1850, in which year he moved to Burlington, Iowa, and there entered the practice of the law. He secured a fair practice from the first, even in the midst of that strong and numerous bar. He was made county judge of his county, and served acceptably for one full term. After the breaking out of the War of the Rebellion, he was in the military service of the United States for between two and three years, being assigned to the regular army and placed in command of important posts, requiring the exercising of important semi-civil duties as well as military. By reason of ill health he was compelled to resign his position in the army, and thereupon he resumed the practice of the law,

which was continued with marked success. In 1874 he was appointed to the district bench, and was afterwards twice re-elected. Judge Newman was a man of very strong character, and was always obedient to his duty as he saw it. His ability, integrity and abiding faithfulness secured for him a most desirable business, which always had his prompt and considerate attention. As a judge he was most thorough, conscientious and impartial, and his administration of that office was dignified and highly acceptable. His influence upon the jurisprudence of the state has been alike at the bar and on the bench—potent and most healthful.

Liberty E. Fellows was a native of Vermont, where he received a fair education, which was supplemented and added to by several years of teaching and concurrent study. He came to Iowa about 1858, and studied law here, and was admitted in 1862, locating at Lansing, where he entered upon and pursued the practice of the profession, wherein he has been very successful. In 1865 he was elected to the house of representatives of the general assembly, and he was very active and faithful in the discharge of his duties there. At the close of his term as representative he was elected to the senate, in which he manifested the same fidelity, activity and usefulness. Mr. Fellows is a man of high standing, not only as a lawyer, but as a Christian citizen, and his influence has always been for the right.

Walter I. Hayes was born in Michigan, where he received his academic education, and thereafter he graduated from the Ann Arbor Law School, and was admitted to the bar of that state in 1863. In 1866 he removed to Iowa and entered into the practice of the law as partner with N. B. Baker, the very distinguished adjutant general of Iowa during the War of the Rebellion. The partnership was successful in business, and continued till General Baker removed to Des Moines, some two or three years after.

He was thereafter a partner with Judge George B. Young, who was circuit judge in that district. Mr. Hayes' success at the bar secured for him early recognition and a high standing. In 1875 he was appointed judge of the district court of that district, and he served as such to fill the vacancy and was elected to a full term. His administration of the duties upon the bench was of a high order and most acceptable, and this while his district was perhaps the most important in the state. He was re-elected and his service upon the bench covered a period of nine years or more. It was Judge Hayes who decided the constitutional prohibitory amendment to be void, and on appeal to the supreme court his judgment was affirmed. In 1886 he was elected to congress from the second district, and was three times re-elected. As a legislator in congress, Judge Hayes was very active and efficient in the service of the country and especially in the matters of interest to his own district. He was an able and faithful public servant, and discharged the duties of the different positions to which he was elevated with fidelity, ability and integrity.

Ezekiel S. Sampson was born in Ohio, but removed with his father's family to Illinois when only a boy, and later, in 1843, removed to Keokuk county, Iowa. He there obtained a good common and high school education, and in 1854 he went to Oskaloosa and there pursued the study of the law and was admitted to the bar. He began practice in 1856 at Sigourney, and was elected prosecuting attorney for that county. In 1861 he entered the Union army and was made captain of Company F in the Fifth Infantry. He was promoted to major, and served in that position during the war, after which he resumed the practice of the law. In 1865 he was elected to the state senate, but after serving one session he was elected district judge for his district, when he resigned his senatorship and entered upon his duties as judge. He was re-

E. L. Sampson

elected as judge and continued to serve until 1874, when he was elected to congress, where his services were so satisfactory that he was re-elected and served four years most efficiently. While Judge Sampson was a good lawyer and legislator for both the state and the nation, yet his greatness and thorough qualifications were most abundantly manifested as well as his peculiar qualifications therefor, during his service upon the bench. His instructions to the jury were concise and yet very comprehensive and clear. In these respects he was not surpassed, if indeed he was equaled, by any other judge on the district bench. He was an able, pure and successful man, and his influence upon the jurisprudence of Iowa was most beneficial.

Wm. B. Fairfield, a native of New York, thoroughly educated in Williams College, Mass., and a graduate of Hamilton College, N. Y., was admitted to the bar there in 1856 and the same year removed to Charles City, Iowa, where he entered upon the practice of the law and very early secured a fine business. His readiness of apprehension, his thorough culture and his easy and pleasing manners brought to him early success. In 1864 he was elected judge of the district court in the Twelfth judicial district, and was re-elected in 1868. His ability and high legal attainments with a natural judicial trend made him a very acceptable, as he was a very impartial, judge. He resigned his judgeship before the termination of the period for which he was elected, and gave his attention thereafter largely to banking and other business. He made his impress upon the jurisprudence of Iowa.

Charles B. Richards was also born in New York and received there a liberal education in different academies, and was a graduate of the Rensselaer Polytechnic Institute of Troy. He studied law with Joshua A. Spencer in Utica, and was admitted to the bar, and practiced for a year or more before immigrating to Iowa, which he did,

locating at Fort Dodge, in 1856. He there began the practice to which he devoted himself very closely for some eight or nine years, during which time he filled a term as prosecuting attorney, and was successful. He was a bright, industrious and careful lawyer, and secured a most enviable standing in the profession. He was, however, after about a decade of experience in the practice, enticed into the business world, which was always attractive to him and in which he made a great success. He was a man of most excellent character and of large influence in his city and county and state.

Irving W. Card was a native of Ohio, where he received a good common school and academic education. He removed to Iowa in 1854, stopping for a brief time at Vinton and at Mason City, but later removed to Charles City, where he studied law, and where he was admitted to the bar in 1859. He entered upon the practice there, which he continued for about two years, and then moved to Mason City, where he formed a partnership with Mr. Stansberry and later with Mr. Miller. The firms of Card & Stansberry and of Card & Miller had each a very extensive practice, being among the very leading firms in that portion of the state. In 1868 he was elected district attorney for the Twelfth judicial district, the duties of which office he discharged with decided ability and success. Mr. Card was a man of excellent character and of large influence, not only in the legal avenues, but also in business circles and public matters.

CHAPTER XXXVI.

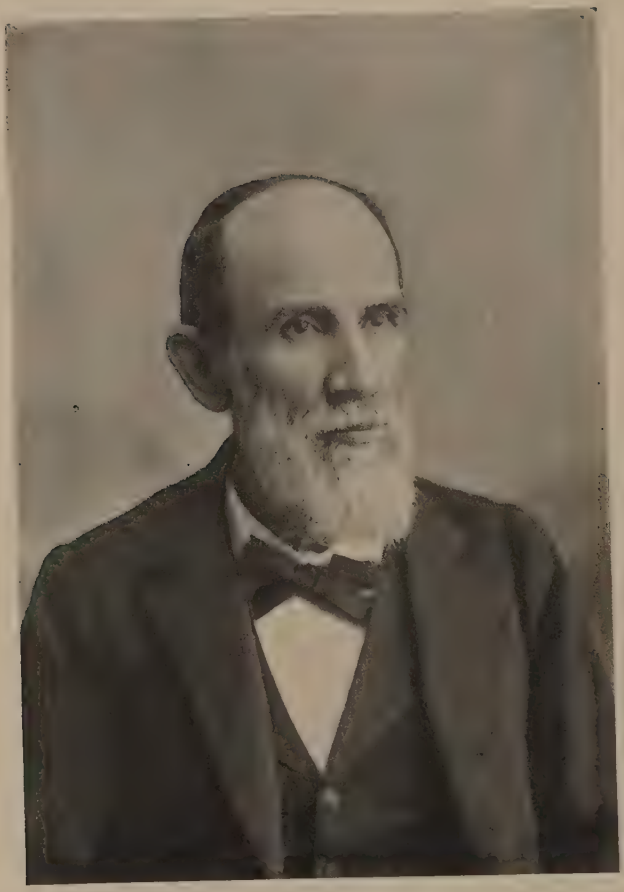
NOTICES OF ATTORNEYS CONTINUED.

Jed Lake was born in New York, where he received good common school and academic education and had three years of a college course. He removed to Iowa and located at Independence. He was admitted to the bar and began the practice of his profession in 1858, and has followed it with great industry and marked ability ever since, subject to interruptions in order to discharge other concurrent and public duties. He was elected to the house of representatives of the general assembly which held its first session in January, 1862. In August, however, of that year he entered the military service in the Twenty-seventh Iowa Infantry, of which he was first made lieutenant-colonel and afterwards colonel. He served with his regiment through the war and until it was mustered out in 1865. He then returned to Independence and resumed the practice of the law, which he pursued with great diligence. He formed a partnership with Mr. N. W. Harmon, and the firm of Lake & Harmon became and maintained itself as one of the leading firms of attorneys in that part of the state. Colonel Lake is a man of versatile talent and in demand for public duties. He was commissioner for the federal government to appraise certain lands in California, and was one of the commissioners of Iowa for the erection of a hospital for the insane at Cherokee. He is a man of marked ability and high character and has left his impress upon the jurisprudence and history of Iowa.

Geo. W. Argo was born in Ohio, but when only a boy he removed with his father's family to Indiana, where he received a common school education and entered upon a

collegiate course in Fort Wayne College, but before its completion he volunteered as a private in the Fifty-fifth Indiana regiment, and was soon promoted to second lieutenant. After about two years' service he resigned and returned to Fort Wayne. Two years later he removed to Marengo, Iowa, where he entered upon the study of the law and where he was admitted to the bar in 1867. Before opening an office, however, he aided in building Fort Randall in Dakota territory as foreman of the carpenters. While there he was elected a member of the legislature of 1870, in which he served. In November, 1871, he removed to LeMars, Iowa, and there opened an office and entered upon the practice of the law. His great industry and progressiveness soon provided him with a competent business, which he disposed of in such manner as to be recognized the leader of his local bar and largely of the entire district. He turned his attention to the defense of persons charged with crime, and attained a reputation as such which gave him business, not only in his district and state, but also in other states. Later he removed to Sioux City, where he continued to do a large and successful business. He is a man of decided ability, thorough knowledge of the law, sagacious, discreet and practical in the trial of cases.

Charles H. Lewis was born in New York and moved, when quite young, with his father's family, to Illinois, and later to Independence, Iowa. He was educated in Iowa, and had a course of three years or more at Cornell College, when he enlisted in the 27th Iowa Infantry, of which he was made adjutant and served throughout the war. He studied law in the State University of Iowa and was admitted to the bar in 1869, and then settled at Cherokee and entered upon the practice of the law there. In 1870 he was elected district attorney for the Fourth judicial district and he discharged the duties of that office with such ability and consideration that he was recognized as



Robt Sloan

being worthy of promotion. At the close of his term as district attorney he was elected judge of that district, and he was re-elected and served two full terms with great acceptability. Judge Lewis was a man of fine character, thorough literary education and well grounded in the law. His administration of the office of judge was highly acceptable and his every influence was for good.

Epenetus H. Sears was born in New York and there secured a common school and academic education, and acquired further culture while teaching. He also studied law in New York, and was admitted to the bar in 1845, and continued the practice there until 1853, when he removed to Sidney, Iowa, where he opened an office and continued the practice of his profession until 1855, doing a good business, although the population of the village and of the county was limited. In 1855 he was appointed by Governor Grimes, judge of the district court to fill the vacancy caused by the resignation of Judge Bradford. He was elected as his own successor, and at the conclusion of that term was re-elected, having some nine or ten years' service upon the bench. Judge Sears was a man of unusual ability, great studiousness and abiding integrity. His knowledge of the law was thorough, his dignity always abiding, and his integrity and impartiality were unquestioned. He exerted a most potent influence upon the jurisprudence of the southwest part of Iowa and left a most enviable record.

Robert Sloan was a native of Ohio, where he received a good common and limited high school education. In 1853 he removed to Iowa, where he engaged and continued in teaching for some eight years. He studied law and was admitted to the bar in 1861, and began practice in Keosauqua, where he continued with a fair business for about eight years; his growing business in the meantime being an assurance of his growth and development as a lawyer. He was appointed circuit judge in his district

and served as such three full terms with very great and unusual acceptability. In 1895 he was elected to the district bench and he has continued thereon to date. Judge Sloan is a man of strong native ability, thorough knowledge of the law, is very considerate, and has held and retained the confidence of the bar and the people of his district without diminution. His career as a judge, in view of the great length of his service and the almost universal satisfaction he has afforded to the bar and people of his district, is unparalleled.

Geo. W. Crooks is a native of Indiana and came with his family, during boyhood to Iowa. His education was obtained at the common schools, concurrently, while working on a farm and in mills. He was studious and acquired a good practical education. He volunteered and became a member of the Tenth Iowa Infantry, but by reason of sickness was discharged, after a brief service. He studied law, and was admitted to the bar in 1873, and has since practiced at Boone, alone, and also with partners. His practice has been very extensive and continued. He was elected to the general assembly in 1877, and was a useful and efficient member of that body. Mr. Crooks' character as a man, quite as much as his thorough knowledge of the law, brought to him his large clientage. His influence in every way has always been of the best.

Henry C. Traverse was born in Indiana and obtained his education amid struggles for the means of living. He supplemented this education by learning the printer's trade and working several years as journeyman, and also by teaching school. He studied law, and was admitted to the bar in 1862, and before commencing to practice he entered the service in Company F, Thirtieth Iowa Infantry, of which he was made orderly sergeant, in which capacity he served during the war. Upon his discharge from the service he returned to Bloomfield and entered

upon the practice of the law and early built up a thriving business. He formed a partnership, and the firm of Traverse & Eichelberger became one of the leading firms in that county and district. They were prompt and very attentive to business, and secured the confidence of the community and of the courts. Mr. Traverse is a very thorough, careful and painstaking office lawyer, in which department of the practice he greatly excels. He was a member of the house of representatives of the general assembly of Iowa in 1866 and also of the senate for the sessions of 1868 and 1870. His characteristics as a lawyer made him a most valuable and efficient legislator.

Albert Head was a native of Ohio, where he received a good common school education. His family came to Iowa in 1855 and settled at Montezuma, where he studied law with M. E. Cutts. He taught school winters while reading law, and was admitted to the bar in 1859 and began the practice at Montezuma. In 1861 he enlisted in the army and was made captain of Company F, Tenth Iowa Infantry. He was in many battles, was twice wounded, and was discharged at the end of three years' service, having made a brilliant military record. Upon his return from the army he settled in Jefferson, Iowa, and resumed the practice of the law, which he continued for many years, in connection with banking and other business. His knowledge of the law contributed in a large degree to the great success which he has attained in life. He has been in the legislature one or two terms and was most active and efficient therein.

Sherman G. Smith was a native of New York, where he obtained a good common school and academic education. When about twenty he removed to Oberlin, and there entered college and continued through a part of the junior year. He read law in Ohio, and was there admitted to the bar in 1857, when he removed to Newton, Iowa, and commenced the practice of his profession, and

he continued in a very full and successful practice until September, 1862, when he entered the military service and became major of the Fortieth Iowa Infantry, with which regiment he served until late in 1864, at which time, by reason of ill health, he resigned. Prior to entering the service he was elected to the state senate, and he served in a regular and special session, giving the most hearty support to all war measures. In 1870 he was elected district attorney for the Sixth judicial district, and served as such for two terms. He was a good lawyer, industrious and attentive to business, and always faithful to every duty, whether serving as a private citizen or the public. He always prepared his cases thoroughly and was a good advocate. A man of excellent character and of large influence.

Stephen N. Lindley was a native of Pennsylvania, where he obtained a good education, but before he attained his majority he moved to Ohio, where he read law, concurrent with teaching school. In 1854 he removed to Newton, Iowa, and in the following year was admitted to practice. He opened an office and began the practice there, and has continued it, subject to the discharge of public duties, ever since. He has always had a good practice,—that is to say, a good practice, having reference to its volume and also to the character of business, and he has given studious and considerate attention to it. In 1870 he was appointed circuit judge to fill a vacancy caused by the resignation of Judge Winslow, and the next year he was elected thereto by the people. Judge Lindley's knowledge of the law and his great care and consideration given to the case before him, made him one of the most satisfactory judges upon the bench. Upon the conclusion of his service upon the bench he returned to the bar and has continued therein.

Andrew J. Baker was born in West Virginia and obtained his education there and in Ohio, and concluded it

at the Wesleyan University, Mount Pleasant, Iowa. He read law in the office of C. Ben Darwin at Burlington, and was admitted to practice in 1855, at which time he opened an office in Winterset, where he continued the practice of the law with most satisfactory conditions until late in 1861, when he enlisted as a private in Company E, Seventeenth Iowa Infantry. He was elected by that company and mustered in as first lieutenant, and was in numerous battles until January, 1863, when he resigned because of physical disability. On his return from the army he settled in Lancaster, Missouri, and resumed practice there. In the election of 1868 he was elected to the house of representatives of the Twenty-fifth general assembly of Missouri, and the next year was elected attorney general of the state of Missouri, the duties of which office, as well as that of legislator, he discharged with ability, fidelity and efficiency. In 1875 he returned to Iowa and formed a partnership at Centerville with General F. M. Drake, and he continued the practice of the law there till 1884, when he was elected attorney-general for Iowa and he was re-elected in 1886. He discharged the duties of the various positions to which he was appointed and elected, to the entire satisfaction of his party and the public. During the period of his acting as attorney-general he compiled annotations of decisions of the United States courts, which were published under the title of "Baker's Annotated Constitution of the United States." He returned to Centerville and resumed the practice of law there, which he has continued since. General Baker has not only been elected attorney-general for two states in succession, but he has succeeded in administering the duties of that office in each to the entire acceptability of its people and the public officers with whom he came in association by reason of his position. General Baker is a man of decided ability, thorough legal culture, of extended and varied experiences and is also a man of

most excellent character, wielding a potent influence for good.

Milo P. Smith was born in Ohio, where he received a common school and academic education and a partial course in the Ohio University, and coming to Iowa he completed his education by a graduation from Cornell College at Mt. Vernon. He began the study of law at Marion in 1861, but the next year enlisted in the Thirty-first Iowa Infantry, of which he was made sergeant-major. He was later made captain of a company, and he served uninterruptedly until the close of the war, taking part in very many battles. At the close of the war he entered the law department at Ann Arbor, and was graduated in the spring of 1866, when he located at Marengo, and entered upon the practice of his profession. He was successful from the first, and he continued the practice till 1874, when he was elected district attorney for the Eighth judicial district, and he was re-elected, making his service therein eight years. His accurate knowledge of the law, his great ability, and persistent industry won for him great success in that office. He has recently been elected to the district bench for the Eighteenth district, and is discharging the duties of judge with very great acceptability. Judge Smith has a very decided superior legal ability, and his thorough acquaintance with the law, together with his dignity and impartiality, have given him an exalted place in the estimation of the bar and people of his district and of the state.

Frederick Mott was born in Pennsylvania and there received his elementary education. He attended Hamilton College, New York, for two years, and then went to Brown University at Providence, Rhode Island, where he completed his course by graduation in that institution. He then went to Vermont, where he pursued the study of the law and was admitted in 1855. After teaching two years in Sandusky, Ohio, he removed to Iowa and set-

tled at Winterset, where he entered upon the practice of the law in partnership with John Leonard, which he continued with marked success till he entered the army in 1862. He was made quarter-master of the Thirty-ninth Iowa infantry and was, in 1864, appointed assistant adjutant-general with the rank of captain, in which office he showed such aptitude and promptness as brought to him the special commendation of his brigade commander. His service with the army closed in July, 1865, when he returned to Winterset and devoted his attention to the law and its practice. In 1868 he was elected judge of the circuit court of the Fifth judicial district, and he rendered most acceptable service therein. Judge Mott's thorough knowledge of the law and his very thorough literary culture, together with his marked ability and courteous manners, made his administration of the law especially able and acceptable to the members of the bar as well as to the litigants and the people. At the close of his service on the bench, he accepted the position as professor of pleading and practice in the law department of the State University. His thorough knowledge of those subjects made his services there most efficient and valuable. In 1875 he resigned that position and returned to Winterset and thereafter devoted his time to banking and other business, wherein he has made a most decided success.

Joseph Lyman was born in Michigan, but in infancy removed with his family to Ohio, where he received his education. In 1857, before attaining majority, he removed to Council Bluffs, Iowa, where he taught school until his enlistment in 1861 in the Fourth Iowa Cavalry. He was promoted to adjutant of the Twenty-ninth Infantry, and in 1864 was made major of that regiment. He was a very competent and brave officer. On leaving the service, he studied law in the school established by Judges Wright and Cole at Des Moines, and was a member of the first

graduating class thereof. After his graduation he returned to Council Bluffs and engaged in the practice of the law, wherein he made a most decided success. Major Lyman was endowed with a clear logical mind, quite above the average, was a close and thorough student, and gave devoted attention to his business. He soon attained a high rank in his profession, maintaining the same till his death, which was quite premature.

Joel N. Cornish, a native of New York, where he received a thorough education, including a course in law, came to Iowa in 1854 and located, first at Iowa City, but in 1859 he removed to Fremont county, where he continued the practice of his profession for fifteen years and had quite an extensive practice, and was, during that time, one of the leading lawyers in his county and district. Mr. Cornish was a man of fine personality, of decided ability, and left his impress, not only upon the jurisprudence of the state, but upon the general business and political interests of that locality.

James Hagerman was born in Missouri and received his education there, including a college course. He removed with his parents to Keokuk, Iowa, in 1864, where he studied law with the strong firm of most distinguished attorneys, Rankin & McCrary. He was admitted to the bar of Missouri, before attaining his majority, in December, 1866. On attaining his majority he was admitted to the bar of Iowa. He was very actively engaged in the practice of the law, both in Iowa and Missouri. The firm of McCrary, Hagerman & McCrary was among the very leaders of the bar, not only in their district, but elsewhere in the state, and especially in the federal courts. Mr. Hagerman while at college discovered most signal ability as a debater and speaker, and he has maintained the reputation there acquired through his professional life. His naturally logical mind, his keen and vigorous perception, together with his thorough knowledge of the law, have

given him a place in the front rank of the profession, not only in Iowa, but also in Missouri. His success and standing at the bar is not surpassed. He removed from Keokuk to St. Louis, Missouri, many years ago, and very shortly attained a standing in the front rank of the profession in that city and state.

CHAPTER XXXVII.

REVIEW OF CASES, NOTICES OF ATTORNEYS, ETC.

A most interesting question came before the supreme court at its June term, 1873, with respect to the right of a spouse to maintain a suit for alimony without also asking a divorce. The case was Graves v. Graves (36 Iowa, 310), and was as follows: The plaintiff and defendant were married in New York and at once removed to Wisconsin, where they lived together for two or three years, and had born to them a daughter. The plaintiff then, with the consent of the defendant, returned with the child for a visit with her family in New York. Directly after the plaintiff left, the defendant moved to Iowa and there lived in open adultery with another woman. After moving to Story county, Iowa, the defendant brought suit for divorce against the plaintiff in Polk county, but no notice of such suit was ever given to the plaintiff nor did she have knowledge thereof until her return to the defendant in Iowa. The plaintiff brought this suit for alimony, but did not ask for a divorce, and the vital question in the case was, whether the wife could maintain a suit for maintenance or alimony without asking for a divorce. The opinion was prepared by Cole, Justice, and therein it is held, that a court of equity will entertain the action; that it will be entertained on the ground of preventing

a multiplicity of suits, or the inadequacy of relief at law; that the reason for the denial of such relief in the ecclesiastical courts and a like denial in the English chancery, and in many of the American equity courts, was because the English chancery courts derive their jurisdiction in divorce cases from the ecclesiastical courts, and unquestionably in those courts this action could not be maintained; and the many American cases have followed the decisions of English chancery, without taking notice of this fact; that the chancery jurisdiction of the American courts was not limited, even in such cases, to the jurisdiction rightly exercised by the ecclesiastical courts.

Another case involving a constitutional question arising upon the clause of the constitution limiting the power of cities to contract indebtedness was decided. It was the case of Grant v. City of Davenport (36 Iowa, 396). The opinion was prepared by Cole, Justice, wherein it was decided, that where a contract made by a municipal corporation pertains to its ordinary expenses, and is, together with other like expenses, within the limit of its current revenues and such special taxes as it may legally, and in good faith intends to, levy therefor, such contract does not constitute "the incurring of indebtedness" within the meaning of the constitutional provision (Art. 2, sec. 2) limiting the power of municipal corporations to contract debts.

At the succeeding December term of court, 1873, a case involving the rights of persons of color while traveling was decided. The case is Coger v. The N.-W. Union Packet Co. (37 Iowa, 145). The opinion was prepared by Beck, Chief Justice, wherein it was decided that, under the laws and constitutional amendments of the state and federal government, a person of color is entitled to the same rights and privileges while traveling as a white person is, and cannot be required by any rule or custom, based on distinction of color or race, to accept other or

Smith McPherson

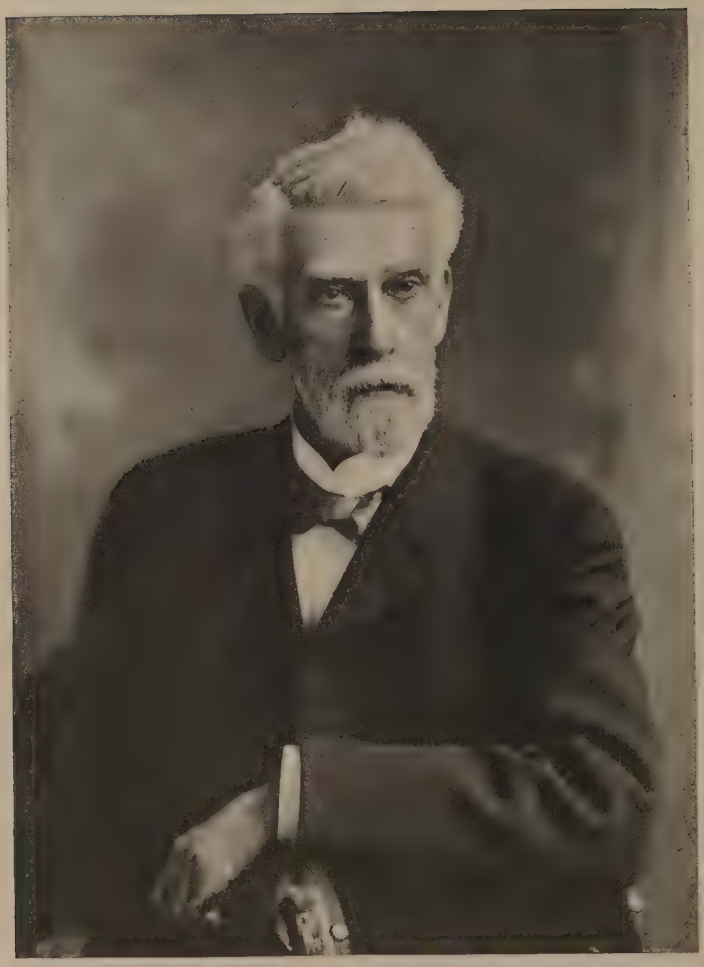
different accommodations than those furnished to white persons.

At the December term, 1874, the case of Shelton v. Johnson (40 Iowa, 84), having peculiarities and possibly involving hardship, came before the court for determination. The case was this: A physician employed to attend the sick in the family of the defendant, upon some question arising among the neighbors as to the competency of his ministrations, asked of his employer permission to call a consulting physician at his own instance and at his own cost. Consent was given thereto, and the plaintiff in this action was called by the attending physician and gave attention to the sick ones of the defendant's family. It is not shown that the plaintiff had any knowledge of this agreement between the attending physician and the defendant. The plaintiff sued to recover pay for his services rendered to the sick of the defendant's family. The opinion was prepared by Day, Justice, and decides that a physician who is called to a consultation by an attending physician for his own benefit, in accordance with an agreement between the latter and his employer, that the attending physician shall pay the expense of the consultation, can recover for his services from the employer under an implied contract, notwithstanding the agreement.

Smith McPherson was born in Indiana and there received a good common school and academic education. On attaining his majority he attended the law department of the Iowa State University, and there acquired a good fundamental knowledge of the law. Upon his graduation in 1870 he was admitted to the bar and located at Red Oak, where he has conducted the practice uninterruptedly save by the public duties he was called upon by his fellow-citizens to perform. His practice was good from the first, and by reason of his diligence, ability, knowledge of the law and undivided attention to the business brought

to him he established a most enviable reputation as a lawyer. In 1874 he was elected district attorney for his, the Third, district, the duties of which he discharged so faithfully, efficiently and satisfactorily that he was re-elected to a second term, which he served fully and faithfully. In 1881 he was elected attorney-general of the state, in which office he served the state with fidelity and efficiency for four years. In 1889 he was elected representative in congress, upon the duties of which office he entered, and he served with faithfulness to his constituents and ever abiding fidelity to the interests of the whole people till June, 1900, when he was appointed judge of the United States district court for the southern district of Iowa. He resigned his office as member of congress and entered upon the duties of district judge, in which he has manifested the same distinguished ability, legal learning, industry and fidelity that had characterized his previous official services. He has discharged the duties of district judge with such entire satisfaction to the bar and the people as to bring his name prominently before the authorities for promotion.

Wm. F. Brannan was born in Washington, D. C., and there obtained his education, both common school and college. He supplemented his education with teaching for some time in the state of Maryland, during which time he began the study of law, and he pursued it till he was admitted to the bar in 1846. He was auditor of the court of chancery of Washington county, Maryland, where he was admitted to the bar, until 1855, when he located at Muscatine, Iowa, and engaged in the practice of the law. His ability and learning, together with his faithfulness, brought him an excellent business, which continued with growing importance, both in character of cases and compensation, till 1872, when he was appointed to the bench by Governor Carpenter to fill a vacancy caused by the resignation of Judge Richman. At the



J Harskaddan.

close of the term for which he was appointed he was elected without opposition, and was afterwards re-elected to another term, but from which he resigned before its expiration, for the purpose of returning to the practice, which he did. In 1886 he was again elected to the district bench and re-elected in 1890, 1894, 1898 and down to the present time, always without any opposition. He presides always with dignity and impartiality and evinces a conscientious regard for law and justice. The satisfaction to his constituents with which he administered the duties of his office is unparalleled.

Chas. E. Bronson was born in New York and came to Iowa when a mere boy with his parents, where he received a good common school and business education, after which he read law in Iowa City, was admitted to the bar, and in 1866 began practice at Manchester. He early secured a good business, and later formed a partnership with E. M. Carr, and the firm of Bronson & Carr became a leading firm of the county and the district. In 1877 Mr. Bronson was elected to the senate and served a full term there with ability and efficiency, securing for his district the legislation desired. Mr. Bronson is a man of very decided ability and learning as a lawyer, and has made a success as a business man. A most excellent man, of good influence both abroad and at home.

Jerome D. Carskaddan was born in New York and there educated, including the study of the law, and was admitted to the bar in 1853. He removed to Muscatine and commenced the practice of the law there. He was prosecuting attorney for his county, wherein he served with ability and efficiency. He was also elected to the office of county judge and was re-elected thereto, but resigned to give his exclusive attention to the practice of the law. Mr. Carskaddan has done always, while at the bar, a large business of the higher and better type, and has had connection with nearly all the very important

cases arising in his locality. He has made his impress upon the jurisprudence of the state through his frequent connection with cases in the supreme court, as well as otherwise. He is the peer of any member of the bar of his county, which we have often referred to as one of the very strong bars of the state.

Geo. L. Finn was born in New York and there received common school and academic education. He studied law in the law department of the State University, wherefrom he graduated in 1872, and was then admitted to the bar. He located at once in Bedford and began the practice of the law, securing from the first a liberal patronage. He continued practice there until he was elected to the house of representatives of the general assembly of Iowa, wherein he served two years, and he was afterwards elected to the senate, in which he served two terms, or eight years, rendering most efficient service to his immediate constituents and to the state. Mr. Finn was a man of decided ability, great independence of character and thorough in his knowledge of the law. He made a very decided success as a lawyer and legislator, and wielded an influence very potent.

Lucian C. Blanchard, a native of New York, where he acquired an academic education, which was supplemented by a college course at Rock River Seminary, Illinois, removed to Iowa in 1860. He located at Newton and soon after enlisted in the Twenty-eighth Iowa Infantry and took part in many battles, including the siege of Vicksburg. In 1864, on his return from the army, he entered the law department of the University of Michigan and graduated in 1866. He removed to Montezuma and engaged in the practice and was early elected county judge of that county. After serving one term he was elected circuit judge for the Sixth judicial district. Later he removed to Oskaloosa. His service as county and circuit judge successively was able and well accepted. In 1893

he was elected from Mahaska county to the house of representatives of the Twenty-fifth general assembly, and in 1895 was elected to the senate, and at the close of that term was re-elected. Judge Blanchard was one of the most active and efficient men in the legislature during his ten years of service therein. A man of most marked ability and thorough knowledge of the law, he has exerted a potent and healthful influence upon the history and jurisprudence of the state.

John Shane was born in Ohio and was educated there and in Jefferson College, Pennsylvania, from which he graduated. He read law with Edwin M. Stanton and was admitted to the bar in 1848 and practiced for several years at Steubenville, Ohio. In 1855 he removed to Iowa and located at Vinton, where he engaged in the practice of the law and continued in a successful practice till the War of the Rebellion. He then volunteered and was first made major, then lieutenant-colonel and then colonel of the Thirteenth Iowa Infantry. He was in the battle of Shiloh and numerous other battles and served through the war. In 1871 he was elected to the senate and served one term efficiently. He was then appointed district judge of the Eighth judicial district, and afterwards elected for a full term, during which he was stricken with paralysis and then resigned. Judge Shane was a man of most sterling character, of broad mental powers and ever a faithful and true citizen. He exerted an influence for good in every department of life with which he was connected.

Zala A. Church was born in Wisconsin, where he was educated up to the sophomore year in the Wisconsin University, of which he was a graduate in the law department. He was admitted to the bar in 1876, and soon after settled at Jefferson, Iowa, where he established himself in his profession and made a decided success therein. He served two terms as county attorney of Greene county, and in 1894 was elected judge of his, the Sixteenth, judi-

cial district, and he has been three times re-elected. Judge Church needs no further commendation for the excellency of his service as judge than his repeated re-election by the people whom he has so faithfully and satisfactorily served. He has been alike faithful in every duty in life assigned him.

Talton E. Clarke was born in Kentucky, and at an early age removed with his parents to Missouri, where he was well educated under the supervision of his father, a Presbyterian clergyman. After attaining majority he studied law and was admitted to the bar and located at Clarinda, where he engaged in the practice of his profession and continued therein successfully. In 1882 he was elected to the state senate and, serving therein faithfully and efficiently, he was re-elected, and during his term secured for his constituents the hospital for the insane at Clarinda. Mr. Clarke was an able lawyer, a very correct and influential man, and has left his impress upon the history and jurisprudence of Iowa.

John Cliggitt was born in New York, but early removed, with his parents, to Vermont, and afterwards to Illinois, acquiring parts of his education in each state. He graduated from the Chicago Law School in 1869, and was admitted to the bar there, and engaged in the practice. Two years later he removed to Mason City, Iowa, where he has since been engaged in a large and lucrative practice. Mr. Cliggitt has established for himself a most enviable reputation as a lawyer of great ability, fidelity and success. He holds a high place in the estimation of the people in his county and district.

Chas. J. Deacon was born in New Jersey, and when quite young removed with his parents to Indiana, and later to Linn county, Iowa. He has a thorough education, attested by his graduation in Parsons Seminary at Cedar Rapids, and later from the Iowa State University. He studied law with Judge Hubbard, and was admitted

to the bar in 1873, and has been engaged in a large practice ever since. A portion of the time he was in partnership with Judge Hubbard, and later his firm was Hubbard, Clarke & Deacon. Mr. Deacon is a very close and industrious student of the law, an invaluable office associate, and is fully at home in the trial of cases in court. He is a man of most excellent character and is well appreciated, not only in his own county and district, but also throughout the state.

William W. Dodge, a native of Iowa and a son of Senator A. C. Dodge and grandson of Senator Henry Dodge, of Wisconsin, was educated at Notre Dame, and graduated from the law department of the Iowa State University in 1876 with distinguished honors. He commenced the practice at once in Burlington and has maintained a very excellent and extended practice ever since. In 1884 he was elected to the state senate, in which he became a leading member and served with such efficiency that his constituents elected him to a second term, wherein he served with equal ability, fidelity and distinction. It is enough to say of Mr. Dodge that he has maintained the reputation of his distinguished ancestors and of the state of his birth.

Williard L. Eaton was born in New York, but removed with his parents to Osage, Iowa, when quite young. He is thoroughly educated, being a graduate of the Cedar Valley Seminary and of the law department of the Iowa State University, class of 1872. He began the practice shortly after his graduation from the law department and has continued it with decided ability, fidelity and success. He has served as county attorney and as representative of his county in the house of the Twenty-seventh general assembly. Mr. Eaton is a man of very decided superior abilities, and with a liberal literary education and a thorough legal course, it is not strange that, with his industry and excellent character, he should have attained, as he

has, a high position at the bar. No man in his district stands higher in any of these respects than does Mr. Eaton. He is now one of the railroad commissioners of the state, in which position he is further showing forth his capacity and impartiality. By heredity, Mr. Eaton came legitimately to these excellences.

CHAPTER XXXVIII.

NOTICES OF ATTORNEYS, CONTINUED.

Ezra C. Ebersole is a native of Pennsylvania, where he acquired his education in part and further extended it at Otterbein University, Ohio, and Amherst College, Massachusetts, graduating from the latter in 1862. For eight years, except when he was in the Union army, he was engaged in teaching in the Iowa State University and Western College. In 1870 he was admitted to the bar and began practice at Iowa City. Later, in 1873, he settled in Toledo, where he has established himself in the practice and maintains an excellent business. For ten years he filled the office of county attorney for his county with decided efficiency and success. In 1882 he was elected reporter of the supreme court of Iowa, and at the close of his first term was re-elected, serving most ably and acceptably for eight years, during which time he published twenty-two volumes of reports. He edited the Code of 1897 pursuant to a request and election thereto by a unanimous vote of the legislature. He has prepared and published a law work known as "The Encyclopedia of Iowa Law," which is a law book of very great merit and has met with approval and sale in Iowa surpassing any law book recently published. In it he has blended with great accuracy the common law as changed and modified by the Iowa statutes, and thus his book has been clothed

with special interest and value to Iowa lawyers and Iowa people. It is a great work, and by its preparation and publication Mr. Ebersole has entitled himself to the thanks and gratitude of the people of Iowa.

Thomas R. Ercanbrack was born in New York, and removed with his father and family while a boy to Illinois, where he continued his education by a course in Mt. Morris Seminary, and later, in 1858, he graduated from the Wesleyan University of Connecticut. He was engaged in teaching for a decade or more, as principal of public schools at Evanston, Illinois, and elsewhere. He graduated from the law department of the Iowa State University, and immediately thereafter settled at Anamosa and engaged in the practice of the law. From the first, Mr. Ercanbrack has done a most excellent business. He is a thorough student and a careful, painstaking lawyer. No man stands higher than he in his county and district as thoroughly understanding his cases and presenting them with clearness and fullness. His ability, legal learning and love of justice have prompted him to the most thorough preparation of his cases and hence to more than the average success.

William D. Evans was born in Wisconsin. He graduated from the Iowa State University and then pursued a course in the law department of the same institution, from which he graduated in 1879, and was admitted to the bar. He commenced practice of the law at Hampton in 1879, and early secured a good paying practice. His literary learning and his thorough knowledge of the law, as well as his industry and integrity, contributed to his growing business and his more exalted standing and recognition at the bar. He served two terms as county attorney of Franklin county with ability and success. His practice of the law was continued till 1903, during which time he served a term as a member of the committee appointed by the supreme court to examine applicants for

admission to the bar. At the date last aforesaid he was appointed as judge of the district court for his district, the duties of which he administered with such ability, fidelity and impartiality that he was re-elected and is still engaged in the administration of the law from the bench. His service on the bench has been dignified, able and acceptable.

John D. Glass was born in Ohio, but removed, when a boy, with his father's family, to Clayton county, Iowa. He obtained his education in Iowa, and it is enough to vindicate the thoroughness and excellency of it to state that he is a graduate of the Iowa State University, as well as of the law department thereof. He was admitted to the bar directly after his graduation in 1870 and commenced practice at West Union, where he became a partner with W. E. Fuller. This partnership was dissolved when, a year later, Mr. Glass removed to Mason City, where he continued the practice of the law with most decided success. Mr. Glass had such literary and legal education as qualified him for early attaining the position to which he did attain, that of leader of the bar in his county and district. He is not only industrious, but he is persistent and possessed of such capacity as enables him to maintain his enviable reputation. He was elected to the state senate in 1883 and served a full term of four years. His learning and ability enabled him to accomplish much during that one term of service. As a lawyer and legislator Mr. Glass stands in the front rank. A man of most excellent character and a large and beneficent influence.

William E. Fuller was born in Pennsylvania, but removed with his parents, while quite young, to West Union, Iowa. He received a most thorough education, completing it with a graduation from the Upper Iowa University, after which he graduated from the law department of the State University, and was admitted to

the bar in 1870. He entered upon the practice of the law at West Union, and has continued it there, subject to the interruptions caused by the attention upon public duties to which he was called. As a lawyer, Mr. Fuller always apprehended with great promptness the purposes of his opponent and was equally alert in finding a way to divert or answer that which was coming. He was very attentive to his cases and facile in finding authorities to meet emergencies. He was, from the same characteristics, able and expert in the examination and cross-examination of witnesses. He was well qualified and adapted to win success in the profession. Mr. Fuller was elected to the house of representatives of the Sixteenth general assembly and discharged his duties faithfully and well. Later, he was elected to the Forty-ninth congress of the United States, in which he served with acceptability, taking more part than the average new member. He was re-elected to the Fiftieth congress, also from the Fourth district, and was assigned to important committees and really accomplished something for his constituents and his country. In 1901 he was appointed assistant attorney-general of the United States and confirmed by the senate therein, and has devoted all his time and attention to the duties of that office down almost to the present time. He has recently resigned that position and returned to the practice of the law.

Robert M. Haines was a native of Ohio, but obtained his higher education in Iowa, graduating from Iowa College, at Grinnell, in 1865, and, after teaching as principal of an academy at Troy, he attended the law department of the State University, from which he graduated in 1872, and was then admitted to the bar. He entered the practice at Grinnell, and soon formed a partnership under the firm name of Haines & Lyman, a very strong firm composed of two as able, learned, industrious and conscientious men as can be found anywhere. They did a large

and profitable business and were known, not only in their own district, but throughout the state, and were recognizedly of very high standing. Mr. Haines served as senator for his senatorial district, the Forty-fifth, from 1878 to 1882, a full term, and was a most careful, painstaking and industrious senator, and most faithful in promoting laws for the best interests of the state. He was trustee of Iowa College for many years and down to his decease.

Francis H. Helsell was a native of Ohio, but removed when very young with his parents to Iowa, where he received his education chiefly at the Agricultural College, but completed it with a course in the Illinois College, from which he graduated in 1879 at the head of his class. He studied law and was admitted to the bar in 1880, and located in the practice at Sioux Rapids. His practice from the first was generous for a beginner, and his bright mind, ever on the alert, together with his legal learning and industry, gave him a lead in the practice to which few attain. He had several corporation clients and devoted much of his time and attention thereto. In 1898 he was nominated and elected to the district bench of the Fourteenth judicial district. He served with ability and fidelity the term for which he was elected.

W. A. Helsell, a brother of the subject of the preceding notice, has practiced law, having his home at Odebolt, in Sac county, for about the same length of time as did his brother Francis. Mr. Helsell is one of the brightest and most successful practitioners in his district or in his part of the state. He is a man of most decidedly superior abilities, untiring in his industry and attention to his cases, and studying them with a thoroughness and care equaled by few. He has confined his attention to the practice of the law, and has preferred local to foreign business, and has made an enviable reputation for ability, fidelity and success.

Nathaniel M. Hubbard, Jr., was born in Iowa and is the son of the very distinguished Judge N. M. Hubbard heretofore mentioned. His education was acquired largely at the United States Naval Academy at Annapolis, Md., and after serving two years as mid-shipman he studied law at the Columbia Law School, New York City, and was admitted to the bar in 1885, and commenced practice along with his father and associates in Cedar Rapids, and has continued the same with decided success.

Isaac D. Howard was born in Massachusetts and educated there. He came to Iowa in 1853, settling first in Boone county, but afterwards removing to Greene, of which county he was made district court clerk, and he held the office eight years. He read law during the time, and in 1869 was admitted to the bar. He began his practice at Jefferson, and has continued it there, with very decided success as to the amount of business and the continuity of his clients. Mr. Howard was well educated and thoroughly grounded in the law, but earned his enviable reputation as a lawyer by his wonderful fidelity and care in learning accurately the facts of his case and looking well to the means of proof and his never ending study and devotion thereto. No man at the bar was ever more faithful and attentive to his cases than Mr. Howard, and this fidelity characterized him in all the duties of his life and won for him the confidence, respect and esteem of all who knew him.

Elbert H. Hubbard is a native of Indiana, but was educated up to his college course in Iowa. He had a full course in Yale University, from which he graduated in 1872. He is the son of A. W. Hubbard, who was a prominent lawyer and eminent citizen of Sioux City, Iowa, and who served as judge of that judicial district, the Fourth, for one term, and also was a member of congress for two terms, from 1862 to 1868. Our subject followed the footsteps of his father and attained distinction in his

profession and has always had a large business in cases quite above the average in importance, and most of his professional life has been in partnership with other distinguished lawyers. Like his father, he was elected to congress and served therein but one term. He was also a member of the house in the Nineteenth general assembly of Iowa, and in 1899 was elected to the senate, in both of which he served ably and with fidelity. He has always devoted himself faithfully and persistently to the law, save the taking of the time to discharge the duties of the collateral official positions to which we have referred. He is truly an able, conscientious and sagacious practitioner of the law, and a citizen having the confidence and respect of all with whom he is associated.

Norman B. Hiatt is a native of Pennsylvania. He received his education in Illinois, completing it with a course in and graduation from Knox College. He also studied law in and graduated from the Albany law school in 1858, and was thereafter admitted to the bar and settled at Webster City, Iowa, where he has continued the practice of the law with success. His business has at all times been excellent, and by his studious and constant attention to it he has made an enviable reputation. In 1892 he was appointed judge of the district court by Governor Boies to fill a vacancy, and he discharged the duties of that office with decided ability and unquestioned integrity and impartiality.

P. Henry Smyth was a native of Vermont, where he obtained his common school education. By travel and reading he added to this knowledge. He studied law in Tennessee and was there admitted to the bar, and there he practiced his profession for about two years. He then removed to Burlington, Iowa, where he opened an office in 1870 and entered upon a career of usefulness and prominence. He secured early a large practice of an excellent line of business. His thorough knowledge of the law

and careful attention to his business have won for him a reputation as a leading lawyer in his locality, wherein, early in the history of the territory and state, we found one of the strongest bars. In 1874 he was appointed district judge to fill a vacancy, the duties of which position he performed with ability and satisfaction. At the close of his term he resumed the practice and continued it till 1891, when he returned to the bench and again served with ability, dignity, impartiality and with great satisfaction to the bar and the people.

Stephen Whicher, one of the very early practitioners in the state, was born in Vermont. Before attaining majority he removed to Kentucky, where he supplemented the common school education of his youth, and studied law with Henry Clay, in Lexington. After being admitted, he removed to Indiana, and later, in 1839, he removed to Muscatine, Iowa, where he opened an office and engaged in active professional work. He was appointed by President Fillmore United States district attorney for Iowa, and served with fidelity and ability. His legal attainments by reason of his studiousness and ever persistent industry were of the best and, although the duties of his office of United States district attorney were not extended or onerous, they were performed with entire satisfaction. He was abreast of his brothers in the profession, whom we have heretofore mentioned among the ablest of the state. A man of high character and greatly esteemed and honored by all with whom he came in contact.

Marcellus L. Temple was born in West Virginia, where he obtained his education, including a classical course in the University of West Virginia, from which he graduated in 1873. He studied law in the same institution, and was admitted to the bar in 1874, at which time he removed to and settled in Osceola, Iowa, where he established himself very soon in a most excellent business. He has main-

tained that business to date, with constant growth in the volume and importance of the business, and with corresponding growth and standing in his profession. He was a member of the Twenty-sixth general assembly, and was chairman of the committee having in charge the revision of the Code in 1897. He also, upon re-election to the Twenty-eighth general assembly, became chairman of the judiciary committee, and he has been twice re-elected and served in the succeeding legislatures. He was a leading and most active member of all the legislatures wherein he served, and he wielded as much influence as any member. Mr. Temple is a man of superior ability, of thorough legal knowledge, of sterling integrity and persistent industry, and his standing at the bar and in public affairs is such as these characteristics would naturally give. He has just been appointed United States district attorney for the Southern district of Iowa.

CHAPTER XXXIX.

RETIREMENT OF JUDGE COLE, THE LAST OF THE OLD COURT; ACCESSION OF JUDGE ADAMS, JUDGE SEEVERS AND JUDGE ROTHROCK.

At the December term, 1875, of the supreme court a case entitled Talbott v. The Merchants' Dispatch Transportation Co. (41 Iowa, 247), involving a question of private international law, was decided. The case was this: The plaintiff, a wholesale dealer in Des Moines, shipped by the defendant, a common carrier, four cases of boots, at Hartford, Connecticut, to be transported by said defendant and delivered to the plaintiff at Des Moines, Iowa. The plaintiff alleges the acceptance of the goods, an agreement to carry, and a failure to deliver, and claims the

value thereof. The defendant, by answer, admits that it is a common carrier, the receipt of the goods, and the failure to deliver, and avers want of knowledge as to value. The defendant also avers that by the express terms of the said agreement the goods were to be transported to and delivered at Des Moines, in like order as received, damages from fire excepted; and that, without any fault or negligence of said defendant, said cases of boots were, at Chicago, Illinois, destroyed by fire in the great conflagration of October, 1871, while in transit from Hartford to Des Moines. Upon the trial, the bill of lading introduced in evidence and signed by the defendant stated the receipt of the boots in good order "to be forwarded in like good order (dangers of navigation, collision and fire, and loss occasioned by mob, riot, insurrection or rebellion and all dangers incident to railroad transportation excepted) to depot only, he, or they, paying freight and charges for the same as below." The proof also showed the loss of the goods by fire in the great Chicago fire of 1871. It also appeared that, by statute, such bill of lading and contract were valid and binding in Connecticut, where the contract was made, and also in Illinois, where the goods were destroyed by fire, and it also appeared that by statute of Iowa it was enacted "that in the transportation of persons or property by any railroad or other company, or by any person or firm engaged in the business of transportation of persons or property, no contract, receipt, rule or regulation shall exempt such railroad or other company, person or firm from the full liabilities of a common carrier, which, in the absence of any contract, receipt, rule or regulation would exist with respect to such persons or property." The court below rendered judgment for the plaintiff. On appeal the opinion was prepared by Cole, Justice, and it decided that the general rule of private international law was that a contract, valid where made, is valid everywhere, and that

where a contract specifies a place of performance it is to be interpreted by the law of that place; That the important question to be decided in this case is, to determine the place of the performance of the contract; That, since this contract was made in Connecticut and was there to be partly performed and was partly performed by the receipt of the goods, their shipment and a part of the transportation, its validity and effect should be determined by the law of that state. But without resting the entire case upon that single provision, it was further decided that where there is a conflict of applicatory laws, the parties are presumed to have made part of their agreement that law which is most favorable to its validity and performance, and the judgment was reversed.

In the more recent years the members of the profession in Iowa frequently speak of the "old court," having reference to the judges composing the court at the beginning of 1864, such judges being, Ralph P. Lowe, Geo. G. Wright, John F. Dillon and Chester C. Cole. There are opinions by some of those judges contained also in volume forty-two of the Iowa reports. Indeed, the last case reported in that volume contains an opinion prepared by Cole, Justice. At the close of the December term, 1875, Judge Cole became chief justice from the first of January, 1876, but he resigned his position as chief justice to take effect January 19, 1876, and when he left the bench it closed the services of the last member of the old court. The regular term for which Judge Miller was elected closed on the 31st of December, 1875. Prior to this, a statute had been passed adding one member to the bench of the supreme court, whose term would begin with January, 1876, so that there were at the beginning of that year three new judges installed in their service.

Austin Adams was born at Andover, Vermont, and there acquired his primary education. His academic education was in Black River Academy, where he completed

Austin Adams

his preparatory studies for college, and thereafter entered Dartmouth College and graduated therefrom when he was twenty-two years of age. After completing his college course, he accepted the situation as principal of the Academy at West Randolph, Vermont, and during his services as such principal he devoted his leisure time to the study of the law, but afterwards further pursued that study in Harvard Law School and was admitted to practice in 1854, and in the fall of that year he removed to and settled in Dubuque, Iowa, where he opened an office and entered upon the practice of his profession. His thorough literary culture and his extended study of the law, together with his dignified and manly bearing, enabled him to build up a remunerative practice in a short time. Indeed, he acquired in the new community wherein he had settled an early and enviable reputation for learning, industry and dignified bearing. As a lawyer, Judge Adams was justly distinguished for the thoroughness with which he prepared his cases and for the logical and clear manner in which he presented them to the court. He was both dignified and courteous in his intercourse with his brothers at the bar, and no man stood better than he, as always veritable in his statements to counsel and to the court. Everything emanating from him bore the stamp of culture, and it mattered not as to the character of his case, he never failed to clothe it with evidences of great learning and correct argumentation. These characteristics were also manifested and perhaps in a greater degree, in the discharge of his duties as judge of the supreme court, in connection with which he was always dignified and respectful. His opinions ever manifest a clearness of apprehension of the case and a corresponding precisiveness and perspicuity of statement and conclusion. He was elected to the supreme court bench first in 1875, commencing his term in the beginning of the following year, and his administration of the duties of his office brought to him

such approval that he was re-elected and served two full terms, or twelve years, with ability and impartiality. As a man and citizen, none stood higher than did Judge Adams, and his influence in every way was of the best.

Wm. H. Seevers, who was early in February, 1876, appointed to the vacancy created by the resignation of Judge C. C. Cole, was born in Virginia and educated there. He also began the study of the law in his native state and, after continuing it there for about a year, removed to Oskaloosa, Iowa, where he finished the study of the law, and where he was admitted to the bar in 1846. He at once entered upon the practice of the law there, and continued during his entire life, except while serving his constituents in some public capacity. He attained great excellence as a practitioner early in his professional career, and secured always the leading business. In 1848 he was elected district attorney and served faithfully and well for one term. He was elected judge of the Third judicial district in 1852, but only served about five years of the term, when he resigned and resumed his practice. He was a member of the house of representatives of the general assembly which first met in Des Moines in 1858. He was elected editor of the Code of 1873, and discharged the duties of that position with great acceptability. He was elected to the legislature convening in January, 1876, and served therein till he was appointed judge of the supreme court. Although at the time of his entering upon the duties as judge of the supreme court he was the youngest member in commission, yet he became chief justice by virtue of the succession to which he was appointed. Judge Seevers was a very able man and was possessed of some peculiar and special mental characteristics. His great readiness and facility of apprehension were unsurpassed, and the rapid operations of his mind would bring him to a conclusion upon a case presented to him with great promptitude at the close of its presenta-

J. H. ROTHROCK.

tion. In the estimation of the writer, Judge Seevers was unsurpassed in the promptness and comprehensiveness of his apprehension and the rapidity with which he reached his conclusions; and entire frankness prompts the statement that his conclusions were more uniformly correct than is usual. Perhaps the further statement is also true, that such conclusion, so reached, was his best; that reflection and ratiocination would not lead him to a better. Judge Seevers had a pre-eminently practical mind, and in this respect he was in contrast with Judge Adams. Judge Seevers was versatile and very extended in his knowledge of the law. His opinions as judge evince a general and comprehensive knowledge of the law, as well as of that bearing upon the particular case before him, quite as much as the opinions of any judge upon the bench. Judge Seevers' administration of the duties of his position as judge of the supreme court was able and most satisfactory. He served the period of his appointment and was elected by the people to the full term succeeding. His service during that term was such that without opposition he was nominated and re-elected for a second term, which he served with entire acceptability. Judge Seevers was a very conscientious, upright man, and administered the duties of his judgeship with unquestioned integrity and impartiality.

James H. Rothrock, pursuant to a statute enacted early in 1876, authorizing the appointment of an additional judge of the supreme court, was, in February of that year, appointed by Governor Kirkwood to the new position thus created. Judge Rothrock was born in Pennsylvania, but while a mere lad he removed with his parents to Ohio, where he acquired his education in the common schools and an academic course in Parker's Academy, wherein he was prepared for entering upon a collegiate course. He entered Franklin University at New Athens, Ohio, and continued the college course till the middle of

the junior year. Thereafter he studied law and was admitted to the bar at Columbus in 1854, and at once began practice at Greenfield, Ohio. He continued practice there with fully the average measure of business and success till 1860, when he removed to Iowa and settled at Tipton, where he opened an office and resumed the practice of his profession. In 1861 he was elected to the house of representatives of the general assembly, and was elected speaker pro tem. As a legislator, Judge Rothrock wielded a decided influence, because of his quiet, deliberate and candid manner and his careful and considerate attention to legislative business. When called upon to act as speaker pro tem., he discharged the duties imposed upon him with promptness and impartiality. After the close of the regular session of the legislature for that year, the War of the Rebellion was inaugurated and created the necessity for an extra session, which was called, and Judge Rothrock appeared and took his seat therein. He was active and efficient in the legislation providing for the new emergencies, and before its close he volunteered and was appointed lieutenant colonel of the Thirty-fifth Iowa Infantry. He entered upon his duties as such and took part in the Vicksburg campaign and other service. He was in the command of the regiment on the 22nd of May when the famous assault was made on the rebel fortifications with such terrible slaughter. After this he was seriously ill with typhoid fever, and his condition became such that he was forced to resign. He returned home in the fall of 1863, and resumed the practice of his profession as soon thereafter as his health would permit. He then formed a partnership with Judge W. P. Wolf, and the firm did a large and remunerative business until 1866, when Rothrock was elected judge of the district court for the Eighth district. At the beginning of the following year he commenced his service as judge of that district and discharged the duties thereof with that quiet dignity for which he was

justly distinguished, and with his broad ability and unquestioned impartiality. As a district judge it is very questionable whether the entire state in its history has afforded one more able and acceptable than Judge Rothrock. He was twice re-elected to the same position, and always without opposition, either in his own party convention or by a candidate of the opposite party. He was serving his third term when he was appointed to the bench of the supreme court. His service upon the supreme bench was so entirely satisfactory to the bar and the people that he was twice re-elected, and he had a continuous service of almost twenty years. Judge Rothrock laid no claims to brilliancy nor yet to great profundity, but he was a man very strongly endowed by nature, always practical, and his knowledge of the law was very thorough. His temperament peculiarly fitted him for the bench, for he was naturally impartial, practical and fair. His opinions evince a conscientious fairness and desire to reach the goal of unalloyed justice.

CHAPTER XL.

REVIEW OF CASES.

At the June term, 1876, the case of The Davenport Central Ry. Co. v. The Davenport Gas Light Co. (43 Iowa, 301), was submitted to the court, involving the question of estoppel, respecting which subject we have heretofore cited one or more cases. The opinion in this case was prepared by Adams, Justice. The case was this: A gas company, with the permission of the municipal authorities, had laid down and was maintaining its pipes in the streets of the city, and a street railway company was wrongly informed by the employes of the gas company respecting the location of the latter's pipes, so that the railway track

was laid over them. Upon these facts the court decided that the gas company was estopped from disturbing the railway track, even for the purposes of repairing its own property. The court further decided that an estoppel will be created by silence only when the persons by whose silence it is created had knowledge of the matter in regard to which they should have spoken. The opinion is grounded wholly upon reasoning, no authorities being cited, and is a good illustration of the a priori reasoning of its author.

At the December term, 1876, a case involving the liability of a corporation for the malicious acts of its employes was decided by the court. It was the case of McKinley v. Chicago & N. W. Ry. Co. (44 Iowa, 314). The opinion was prepared by Seevers, Chief Justice, and it decides that a railway company is liable for the malicious and criminal acts of its employes toward passengers while they are executing what they suppose to be the orders of the company, even though the orders do not in fact contemplate such acts; that mental anguish arising from the nature and character of the assault is a proper element of compensatory damages, and the outrage and indignity which have accompanied an injury are to be estimated as well as its physical effects, even in cases where exemplary damages do not lie (Day, Justice, dissenting); that where a passenger, seeking to enter a car reserved for ladies, was ejected with violence, whereby he suffered severe bodily injuries for which he recovered a judgment against the railway company for twelve thousand dollars, such amount indicates passion or prejudice in the jury and the amount should be reduced to seven thousand (Beck, Justice, dissenting). The opinion in this case reviews some decisions of the Iowa supreme court and also of other supreme courts, and is interesting reading to a lawyer.

A question under the federal constitution arose in the case of Olmstead v. Kellogg (47 Iowa, 460), submitted

to the supreme court of Iowa at its December term, 1877. The opinion was prepared by Rothrock, Justice. The case was this: The legislature of Iowa had provided by statute for the appraisement of real property about to be sold under an execution upon a judgment of the court, and required that the property should bring two-thirds of its appraised value, or else it should not be sold. The debt in the case before the court was created before the passage of that statute, but the judgment under which the sale in question was made was rendered after the enactment of the statute, and the sale was made without any appraisement. The constitutional question involved in the case arose upon the provision that no state could impair the obligation of a contract. The opinion is a well considered one and supported by authorities, and therein it was decided that contracts made prior to the taking effect of the appraisement law of 1860 were not affected thereby, even though enforced after the law took effect. Such a law imposes a new condition, rendering the debt more difficult of collection, and to apply it to an existing contract would impair the obligation thereof.

CHAPTER XLI.

NOTICES OF ATTORNEYS.

James P. Conner was born in Indiana, but removed with the family to Black Hawk county, Iowa, when a mere boy, and there obtained his common school and academic education. He acquired his college course at Upper Iowa University, from which he graduated in 1871. The next year he entered the law department of the Iowa State University, from which he was graduated in 1873, and in the fall of that year he opened an office at Denison, and early found himself in the enjoyment of a lucrative prac-

tice. Both his literary and legal education were very thorough because of Mr. Conner's perennial industry and intensity of purpose. He continued practice, subject to the interruptions requisite to discharge public official duties to which he was called by his fellow citizens, and that practice grew both in volume and in the importance of cases continually, and probably no young lawyer ever secured the confidence of a people more rapidly and abidingly than did Mr. Conner. He was for a good portion of the time in partnership with Leslie M. Shaw, the firm being Conner & Shaw. That firm was the leading firm of the county and the district for many years. In 1880 Mr. Conner was elected district attorney of the Thirteenth district and he discharged well the duties of that office. At its close he was elected circuit judge for the same district, and he continued to discharge the duties of that office until the circuit court was abolished, when he was elected judge of the district court for the new judicial district which was named the Sixteenth. He had no opposition in his elevation to this office, the duties of which he discharged for one full term, but declined a re-election, and resumed again the practice of the law. In 1900 he was elected to congress from the Tenth district, of which J. P. Dolliver had been the representative for many years. He was re-elected by a very large majority, and has been twice more re-elected and is now the sitting member. Judge Conner is a man of broad ability, thoroughly honest and conscientious in all his transactions, a thorough student and abidingly industrious, and with these characteristics and qualifications it is not strange that he has made a success in life and commands the confidence and respect of all the people.

Leslie M. Shaw was born in Vermont, where he acquired a good common school education and took a thorough academic course. In 1869 he removed to Iowa, and he graduated from Cornell College, at Mt. Vernon, in 1874

and in 1876 he graduated from the Iowa College of Law, now and for many years the law department of Drake University. Upon his graduation he settled in Denison and began the practice of the law, wherein he made a most decided success, not only in the amount and character of the business which he transacted, but also in the results, and in the confidence of the people among whom he had settled and conducted the business. He has been trustee of Cornell College and president of the board of trustees of the Denison Academic and Normal College, and he has been recipient of the LL.D. degree from two or more colleges. Mr. Shaw was most thoroughly read and cultured in the law, and he was a close student of it during his entire extended career in its practice, and no man was more potent in argument, either before the court or before the jury, than he. He was elected governor of Iowa in 1897 by a large majority, and was renominated by acclamation and re-elected in 1899 by an increased and even quadrupled majority. After retiring from the office of governor, he was made secretary of the United States treasury, and as such has acquired a reputation surpassing any of his predecessors in that office. He has also attained a reputation as a public speaker which is unsurpassed. Governor Shaw is a man of conscience as well as of great ability, and is justly entitled to that high reputation which he enjoys among the American people.

Frank D. Jackson was born in New York, where he received a portion of his primary education, and then he removed with his parents to Buchanan county, Iowa, where he further pursued his studies. He also became a student in the State Agricultural College, where he acquired a thorough education, and afterwards he entered the law department of the State University of Iowa, from which he graduated in 1874. After his graduation from the law department he settled at Greene, in Butler county, where he engaged in the practice of the law. Mr. Jackson is a man

thoroughly acquainted with human nature, eminently practical in all his habits of thought, and industrious in the lines of study presenting themselves to him, and by these characteristics he was enabled to build up a most satisfactory business in the practice and to attain prominence as a leading citizen as well as a good lawyer. He was chosen secretary of the state senate in the winter of 1882, the duties of which office he discharged with great efficiency and satisfaction, and he was again elected to the same office in 1884. His previous service in that office gave him such a conversance with its duties and the facile means of discharging the same that he secured very high standing therein. At the state convention in the same year, 1884, he was nominated for secretary of state, and he was triumphantly elected thereto. His familiarity with the legislation and the business of the state enabled him to discharge the duties of his new position with most decided success, and he was thereafter nominated and elected for three successive terms. In 1893 the republicans, having been twice defeated in gubernatorial contests by the democrats, exhibited their wisdom and knowledge of the means of success by nominating Frank D. Jackson as their candidate for governor, to which office he was by a large majority elected, and the duties of which he discharged with ability and general satisfaction. He declined renomination and turned his attention to other business, wherein he has been very decidedly successful. Governor Jackson's career emphasizes his ability, fidelity and integrity in all the official duties to which he has been called, and entitles him to the love and respect of the people of Iowa.

Richard F. Jordan was born in New York, and while a mere boy removed with his parents to Dixon, Illinois, where he lived with them. Later they removed to and settled in Boone county, Iowa, where he completed his common school and academic education. He then entered the Iowa State College at Ames, from which he

graduated in 1877, and he afterwards entered the Iowa College of Law (the law department of Drake University) at Des Moines, and, taking a full course therein, graduated in 1879. He settled at Boone and engaged in the practice, wherein he early developed a capacity and fitness for the profession. He early acquired a large and lucrative business and maintained himself therein to the fullest. He not only secured a large practice, but he secured the confidence and respect of all who knew him for his thorough integrity, fidelity and ability. He came by accident to premature death.

John L. Kamrar was born in Pennsylvania, but came with his parents, when a boy, to Illinois, and later to Clinton county, Iowa. He acquired his education, public school and academic, in Pennsylvania; his higher education at Mt. Carroll, Illinois. He taught sometime as principal of an academy. He completed his law studies at Webster City and was admitted to the bar in 1872, and he has continued practice there, which has been remunerative and successful. He was elected to the state senate in 1881, and served the full term with prominence and efficiency. Mr. Kamrar has devoted his time faithfully to the practice of the law and has recognition as the leading lawyer of his county and district. He is a man of excellent character, and enjoys the respect and confidence of all who know him.

Joe R. Lane was born in Davenport, Iowa, and acquired his education there up to entering college. He attended Knox College, at Galesburg, Ill., and graduated therefrom. He then studied law in the law department of the Iowa State University, and was admitted to the bar in 1881, and then entered upon the practice of his profession, in his native city. Mr. Lane is a lawyer by heredity, being a son of the Hon. Jas. T. Lane of whom we have spoken. With such heredity he, of course, made a success in the practice. He was elected a representative from

the Second district of Iowa to the Fifty-sixth congress, and served therein faithfully and well, being recognized as one of the substantial working members of the congress. He is a man of unblemished character, thoroughly educated both in literature and the law and has attained the front rank of his profession.

Chas. D. Leggett was a native of Ohio, where he received his education in part, and then came with his parents to Iowa and settled at Fairfield. After enjoying some further advantages in the way of common schools and academic instruction, he studied at Griswold College, Davenport, and later entered Kenyon College, Ohio, from which he graduated in 1869. After graduation, he returned to his home in Fairfield and studied law there with Hon. D. P. Stubbs, and he was admitted to the bar in 1872. He then opened an office in Fairfield and entered actively upon the practice of the law, which he has continued except when discharging official duties to which he has been elected by his fellow citizens. Mr. Leggett's thorough culture and his extended study of the law well qualified him for the extended and important practice which came to him. He rose to the front rank of his profession and maintained himself well. In 1886 he was elected to the district bench of his judicial district and served a full term, manifesting much ability and capacity for the position. Judge Leggett is a man of large ability, great industry and always manifested integrity and impartiality in his judgments upon the bench. At the close of his term as judge he resumed the practice again. A man of most excellent character and enjoying, to a high degree, the confidence and respect of his fellow citizens.

Thomas L. Maxwell was born in Ohio, but removed with the family to Illinois, where he acquired a good English education. He also studied law in Illinois, at Rushville, and was there admitted to the bar in 1874. Imme-

diately after being admitted, he removed to Iowa and was engaged for a time in teaching, and then settled at Corning, where he began the practice of his profession. He met with good success in his business and grew steadily, not only in his actual knowledge as a lawyer and capacities for the practice, but in the confidence and estimation of the people among whom he had settled. Later, he removed to Creston and continued the practice there, and in 1896 he again removed, and this time settled in Des Moines, where he entered upon the practice under most favorable auspices. Mr. Maxwell is an able and scholarly lawyer and assures success, where it can be won, by the most thorough investigation of his cases and of the law applicable thereto. He has an enviable reputation as a trial lawyer.

J. K. Macomber was born in Massachusetts, and came with his parents and family to Iowa when a mere boy. He was educated in the common schools of Iowa and also at the Iowa State College at Ames and had a post graduate course at Cornell University, New York, and at the Massachusetts Institute of Technology, Boston. He was for several years professor of physics in Iowa State College, and contemporaneously pursued the study of the law. He located at Des Moines in 1883 and commenced the practice of the law, in which he has continued ever since. His thorough culture gave him an advantage in the ready apprehension of the law as he studied it, and from the first he has had a fair practice of an excellent type. He served as prosecuting attorney in Polk county for four years, beginning with 1889, and also as city solicitor of Des Moines later. Mr. Macomber is a man of vigorous and broad mental powers which, together with his industry and persistence, have made him a very strong lawyer. During his official positions, he successfully conducted for the county and city very important litigation. He is a man of good character and of large influence.

H. M. Remley was born in Virginia, and removed with his father's family to Johnson county in 1855, where he acquired his education, including a full course in the Iowa State University, from which he graduated in 1869. He also studied law in the law department of the Iowa State University and graduated in 1872. He commenced the practice of law at Anamosa, and has adhered closely to the profession since, devoting his labors a part of the time to services on the bench. Mr. Remley was a very faithful, studious and careful lawyer, and did a most excellent business. In 1896 he was elected to the bench of the district court, and his services on the bench were able, faithful and acceptable. He was re-elected and served two full terms. Judge Remley has been all his adult life an active man in church work, and his labors and influence have always been in the line of the best. He enjoys the respect and confidence of all his acquaintances to a very high degree.

Milton Remley, a brother of the subject of the foregoing sketch, was also born in Virginia, and came with his parents and family to Iowa in 1855 and settled on a farm. He was educated in Iowa and graduated from the Iowa State University in 1867. He studied law with Judge Scott at Anamosa, and was admitted to the bar in 1868. He began practice at Anamosa, but soon removed to Iowa City, where he has since continued to reside and practice his profession. He is a recognized leader of the bar in his county and district, and enjoys a large and remunerative practice. In 1894 he was elected attorney-general of the state, the duties of which office he discharged with marked ability and great satisfaction, so much so, indeed, that he was re-elected in 1896 and again in 1898, serving three full terms. During the time of his service the Code of 1897 was adopted, casting upon the attorney-general many added duties, which he discharged with much learning and ability. He is a man of high

character, an earnest Christian worker, and is by heredity a Baptist, his family for several generations being preachers and leaders in that denomination. A man of high character and most healthful influence.

Cyrus S. Ranck was born in Pennsylvania and removed with his father's family to Illinois and there received his common school and academic education, and then had a full course in the Baptist College at Burlington. After graduating at that college, he entered the law department of the Iowa State University, from which he was graduated in 1871. The same year he was admitted to the bar and began practice at Iowa City, and he has conducted a lucrative practice there ever since, only departing therefrom sufficient to discharge the official duties to which he was called by the partiality of his fellow citizens. He has always had a large and remunerative practice. He was elected to the house of representatives for the Twentieth, Twenty-first and Twenty-fifth general assemblies, in each of which he was an active and leading member. In 1895 he was elected to the senate and served a full term therein, accomplishing much for his constituents and the state. He is well known throughout the entire state as an able lawyer, a wise legislator and a man of honesty and integrity.

Horace G. McMillan was born in Ohio and, when a mere boy, removed with his parents to Washington, Iowa, where he received his common school and academic education. He studied law, and was admitted to the bar in 1880, and located at Rock Rapids, where he practiced his profession, doing a large and lucrative business. In 1898 he was appointed United States district attorney for the Northern district of Iowa. Upon receiving the appointment, he removed to Cedar Rapids, and there discharged faithfully and well the duties of his office, in which he fully sustained the high reputation he had acquired as a lawyer at his Rock Rapids home.

A. W. Wilkinson is a native of Madison county, Iowa, and was there educated in the public schools and academy, acquiring a good practical education, which was supplemented by several years of teaching, wherein he excelled. He was well cultured in civil engineering, and was employed several years in connection with different surveying works, during which time he studied law under the direction of a competent instructor. He was admitted to the bar and commenced the practice of his profession in the beginning of 1875, and thereafter he pursued his profession industriously and closely. In 1882 he was elected district attorney of the Fifth judicial district, the duties of which he discharged with much approval, not only from the judge presiding in the district, but the people of the entire district. At the close of his services as district attorney he was elected judge of the district court of his, the Fifth, judicial district. The only commendation his service needs is to say that he was four times elected to the office, and that he discharged the duties thereof with uniform acceptability. He is an able lawyer, a capable and conscientious judge, and a man of a large and healthful influence.

Elbert W. Weeks was born in Ohio, but when a very young boy moved with his parents and settled in Iowa. He was well educated in the common schools of the state, and at McClain's Academy at Iowa City. He was then graduated from the law department of the State University and was admitted to the bar and began practice. In 1876 he located permanently at Guthrie Center, where he has established and maintained a most excellent and remunerative practice. He early secured a full share of the business, and grew with it until he attained a position in the very front rank of the profession in his county and district. His practice has been large and of the best local type. He has also represented his county in the legislature of the state, in the duties of which he manifested

his characteristic energy and industry, and secured a prominence in legislative matters surpassed by few. His long residence in the county, his ability as a lawyer, and his large practice, together with his excellent character, have given him a most extended and healthful influence in his part of the state.

Horace M. Towner was born in Illinois, where he received his common school, academic and collegiate education, the latter being acquired at the Chicago University. He taught school for a considerable time during which he also pursued the study of the law under the direction of a competent jurist. In 1878 he came to Iowa and was admitted to the bar and entered upon the practice of his profession at Corning, where he has since remained, devoting his entire time to the practice of his profession, except where public official duties demanded his attention. In 1890 he was elected judge of the district court for his, the Third, judicial district, and he has been re-elected continuously since. Judge Towner is a man of very high recognized ability, and he administers the duties of his office with great efficiency and satisfaction. He ranks among the first district judges of the state, and has often in the last few years been mentioned in connection with the supreme judgeship, toward which he certainly is advancing. He is a man of very high character and universally esteemed.

George H. Lewis is a native of New Britain, Connecticut, and he obtained his primary education there. He was attending the seminary at East Hampton, Massachusetts, when the War of the Rebellion arose, and he entered service as a private in the Fourteenth Connecticut infantry. He was wounded at Antietam, and again at the battle of Fredericksburg, which so disabled him that he could not continue in the active service and he was honorably discharged in the fall of 1863. He returned home and entered the collegiate department of Yale Uni-

versity, from which he graduated in 1868. He began the study of the law in his native state, but later went to Grinnell, Iowa, where he taught in the Iowa College for two years, and further pursued the study of the law. He was admitted to the bar at Des Moines in 1871, having finished his study of the law there. He began practice at once, and obtained early recognition. He was for seven years in partnership with Galusha Parsons, during which time the firm did a very large and lucrative business. Mr. Lewis is a very thoroughly educated man, always scholarly in his efforts, and he attained honorable recognition at the bar. In 1893 he published a book entitled "National Consolidation of Railroads in the United States," and he has always been active in literary work. He is a man of high character and most healthful influence, as well as a most able and successful lawyer.

George W. Ball is a native of Jefferson county, Iowa, and there acquired his common school education, which was further extended by attendance upon the high school of Fairfield, and the institutions at Mt. Pleasant, Iowa. In 1868 he entered the law department of the State University, and graduated therefrom in 1870, acquiring by his constant attendance and devoted industry a most thorough knowledge of the law. At first he located at Des Moines in the practice of the law, and he continued for four years, during which time he secured a fair amount of business and obtained recognition, not only as a good lawyer, but as an abidingly honest and faithful man. In 1874 he removed to Iowa City and established himself in the practice of his profession there, where he has continued until the present time in a remunerative, successful and honorable business. He was elected from that county to the house of representatives in the Twenty-first general assembly, and he discharged the duties of a legislator with fidelity, intelligence and efficiency. He then served four years as county attorney. In 1899 he was

elected to the state senate, where he accomplished much for his immediate constituents and for the state. He stands most deservedly high among the entire bench and bar of the state.

Galusha Parsons, one of the very eminent lawyers of Iowa, located first at Fort Dodge, and there practiced the legal profession, and later he removed to Des Moines. He established himself in the practice at Des Moines with great promptness, acquiring business of a high grade, and doing a lucrative practice for many years. He was at first a partner with George H. Lewis, which continued seven or eight years, and later he was a partner with John S. Runnells, under the firm name of Parsons & Runnells, which firm also did a very extended and most excellent business. Later Mr. Parsons moved to Tacoma, Washington, where he at once acquired and for years transacted a large professional business. Mr. Parsons was a man of most excellent character, sterling integrity, and with much aggressive force and large ability as a lawyer.

John S. Runnells was born in New England and came to Iowa shortly before the inauguration of Governor Merrill in his first term of service as governor, and was made his private secretary. Mr. Runnells was a man of very marked ability, quite above the average of our profession, was thoroughly read in the law, and, after concluding his service as private secretary to Governor Merrill, he entered the practice of the law, wherein he made a most decided success. As a public speaker he was not surpassed by any member of the profession at the capital. He was elected reporter for the supreme court and held the office for two terms, and he discharged the duties of it with great ability and satisfaction. His excellent diction and ready command of language enabled him to express in the headnotes of a case the precise phase of the decision announced in the opinion. Mr. Runnells was a

most excellent man and wielded a healthful influence upon the jurisprudence of the state and its political history. He left Des Moines to accept the attorneyship of the Pullman Sleeping Car company in Chicago, and he has made a decided success in the duties of that position and his large influence with that corporation.

Edwin C. Roach was born in Illinois, but was removed to Iowa by his parents in his infancy. He obtained a good education, including a college course in the Oskaloosa College. He also had a full course in the law department of the Iowa State University, from which he graduated in 1875. He began practice directly thereafter at Prairie City in partnership with J. W. Deweese, and their practice was active from the first. Later, in 1882, Mr. Roach removed to Rock Rapids and opened an office there, where he has continued since with an ever increasing practice, not only in volume but in desirability. He was elected by the people of his county to the house of representatives in the Twenty-first general assembly, in which he served with such ability, efficiency, and with such satisfaction that his constituents re-elected him to the Twenty-second general assembly, in which he was enabled to accomplish even more than in the previous legislature. Mr. Roach is a man of sterling character, especially industrious and energetic, and he persists to a success.

Theodore B. Snyder was born in Des Moines county, Iowa, and has always been a citizen of the state. He obtained a good common school education and after further preparation, entered the Iowa Wesleyan University, from which he graduated in 1889. After thus completing his literary course he entered the law department of the Iowa State University and there obtained a full and thorough course in the law, graduating in 1871. He then located at Burlington, in his native county, and entered upon the practice of the law. Mr. Snyder's success in the result

Joseph R Reed

of his cases has been quite marked. This success has not only attended him in the lower courts, but he prides himself upon the fact that no judgment thus obtained by him has ever been reversed by the supreme court. This is remarkable, although it is possible that the account may be balanced in the adverse results in cases appealed by him. Mr. Snyder gives the most considerate, extended and prolonged attention to his cases, and develops by persistent study every proposition involved in them, and this studiousness is very uniformly rewarded. The gratitude of a court goes out to an attorney who thus develops and presents his case. Mr. Snyder is a man of most excellent Christian character and enjoys justly the confidence of the entire community. Mr. Snyder removed from Burlington to Fort Madison in 1891. While this improved the field for his practice, it did not change the measure of his industry or affect the satisfactory results of his practice.

CHAPTER XLII.

RETIREMENT OF JUDGE DAY, ACCESSION OF JUDGE REED, NOTICES OF ATTORNEYS.

With the close of the year 1883 came the close of the judicial term of Judge James G. Day, who had been on the bench continuously from 1871 down to this date, and whose services had always been of the most considerate, attentive and industrious character.

Joseph R. Reed came upon the bench of the supreme court at the beginning of 1884. He was born in Ohio and there obtained his education in the common schools of that state, which was supplemented by a course in the Hayesville Academy, where he pursued a thorough academic course. He removed to Iowa and pursued the study of the law, after his location, at Adel, and, after

acquiring a thorough knowledge of the law there, under the fullest advantages possible, he was admitted to the bar in 1859. He practiced his profession at Adel until the commencement of the Civil War in 1861, at which time he enlisted in the Second Iowa battery of light artillery, and he continued in that service most faithfully and efficiently for the first four years, with the full average of hardships, trials and triumphs. Upon his return home, he resumed the practice of his profession and conducted it with more than the average success. He was justly distinguished as an attorney for the care and thoroughness with which he prepared his cases and the fullness of their presentation to the court. He was elected to the senate from his district, then composed of Madison, Adair, Guthrie and Dallas counties, and served the district efficiently, giving special attention to its wants, but never to the neglect or sacrifice of the general interests of the people of the state. At the close of his senatorial service he removed to Council Bluffs and entered there upon the practice of the law, with partners, which he continued till 1872, when he went upon the bench of the district court; and he was afterwards elected and re-elected, serving three successive terms as district judge. Judge Reed is endowed with a judicial mind and was capable, even as an attorney, of making a fair and comprehensive view of cases presented to him. This characteristic enabled him to administer the office of district judge with quite more than the average of acceptability. His judicial mind, his fair and considerate treatment of the members of the bar, and the dignity with which he presided, gave to him a reputation which led to his promotion to the bench of the supreme court. He was elected to the supreme bench in the fall of 1883, assuming its duties in January, 1884. The characteristics to which we have referred as marking his judicial career on the district bench gave to him from the first the confidence of the bench and bar throughout

the state in his new position. This confidence was neither betrayed nor disappointed. His opinions very uniformly show, not only the judicial mind, but the thorough investigation as well as comprehension of the case. After serving five years of his term, he was nominated and elected to congress from the Ninth district, and he entered upon and discharged the duties of that office with the same fidelity and attention. At the expiration of his congressional term, he was appointed chief justice of the court of private land claims, which had been created, and which had jurisdiction especially of Spanish and Mexican land grants, and was composed of three judges, who held the terms of court in the districts convenient to the lands involved in the cases presented. After the expiration of the term for which the court was created it was extended, and Judge Reed was reappointed and continued until all the duties devolving upon that court had been discharged. Judge Reed always maintained a high character for ability, integrity and fidelity in the discharge of all the duties devolved upon him in the various positions to which he was called. A pure man, a faithful officer and a distinguished citizen.

The first opinion announced by Judge Reed after his promotion to the supreme bench was in the case of Phillips v. Watson (63 Iowa, 28). That case involved a constitutional question, and also other questions of less importance and pertaining somewhat to practice. The opinion prepared by Reed, Justice, decided that chapter 24 of the laws of 1874, authorizing the establishment of public ways to lands having stone and mineral thereon, provides for the right of appeal from the award of the commissioners to the circuit court of the proper county. This right of appeal is an adequate remedy at law for all objections on the part of the one whose land is taken, based upon irregularities in the proceedings and the inadequacy of the damages awarded; and, on account of such objec-

tions, an injunction will not be granted restraining the use of the way condemned. Or, in other words, where the law affords adequate relief, equity will not interfere. That a road or way established under that chapter of the statute, over the land of another, to connect a mine or quarry with a road or highway, is a public way, in the sense that the public may use and enjoy it in the way in which roads and highways are ordinarily used by it, and that a mine owner who procures it to be established must use the privilege which the act confers on him in such manner as not to destroy this right of the public, or prevent its enjoyment. It follows, therefore, that said act was not in conflict with those provisions of the constitution of the United States and of the state of Iowa which prohibit the appropriation by law of private property to private use.

Albert B. Cummins was born in Pennsylvania and there acquired his education in the public schools, to which was added a most thorough course in the college at Waynesburg, from which he graduated in 1869, in which year he came to Iowa. He spent the three or four years following in civil engineering and other revenue yielding employments in Iowa and Indiana. He studied law in Illinois, and was admitted to the bar there at the beginning of 1875, and entered upon the practice, which he continued in association with others for about three years, and then located at Des Moines, where he entered upon the practice of the law in partnership with his brother for about two years, and later, in 1881, he formed a partnership with Judge Wright and his two sons, Thomas S. and Carrol, the firm being Wright, Cummins & Wright. By subsequent changes the firm became Cummins, Hewitt & Wright. His law business at the first was not extended or important, but it constantly grew, both in volume and importance, down to his entering upon the discharge of his duties as governor elect of Iowa. During that time

A. B. CUMMINS.

no lawyer in the state grew more rapidly or more surely, in the estimation of his clients, the courts and the bar of the state than did Mr. Cummins. His extended practice and its great variety conduced to such growth. His very superior ability, his persistent studiousness and his great delight in the practice grew him into the leading lawyer of the state. Mr. Cummins always gave the greatest care and thoroughness to the preparation of his cases, and his unusual power of analysis led and enabled him to cite those cases as authority which had a bearing and a controlling influence on the case at bar; and his unusual ability to present, not only the authorities, but the arguments in support of his positions, gave to him great success. In 1887 he was elected to the house of representatives of the Twenty-second general assembly from the capital county, and as a legislator he assumed a position and influence not often accorded to a new member. In 1901 he was elected governor of the state, and he has held the office continually since, having been twice re-elected, the second time in 1906. He has administered the office of governor with the same ability and great excellence which has characterized his career as a lawyer. Probably no man in the history of the state through his professional, legislative and executive career, has exercised more healthful influence upon the jurisprudence and legislative history of the state than has Governor Cummins.

James H. Trewin was born in Illinois and there acquired his education, common school and academic, and graduated at Lenox College, Iowa. He studied law, and was admitted to the bar in 1882, and settled in the practice of his profession in Allamakee county. His practice from the first was good and remunerative, and it grew in the number of cases and in the importance of each. He was elected to the house of the general assembly in 1893 from Allamakee county and took rank at once as a leading member. Two years later he was elected senator from the

district composed of Allamakee and Fayette counties. He discharged the duties of senator with such decided ability and efficiency that he was by his constituents unanimously renominated and was elected to the senate again in 1899. Senator Trewin was well and properly denominated one of the leaders of the senate, and he was foremost in efficiency in securing important legislation affecting the entire state. He was chairman of the committee which supervised the publication of the Code of 1897. Since the close of his last senatorial term he has removed to Cedar Rapids and engaged in the practice of the law, and has the recognition there, as he did in his former location, as a leader of the bar. Mr. Trewin is a very active, industrious and most influential man.

George H. Carr is a native of New York, and he removed with his father's family while a mere child to Illinois, where he acquired his education, including common school, high school and college. He began the study of the law in Illinois, where he studied for one year, and then he entered the law department of the Iowa State University, from which he was graduated in the spring of 1877. He was admitted to the bar and settled at Emmetsburg, where he entered upon the practice of his profession as the junior member of the firm of Soper, Crawford & Carr. Athough junior in the firm, he soon became recognized as competent and qualified for the leadership, not only of a firm, but also of the bar. His firm did a very large and lucrative practice. He was elected to the district bench of his district, and he took his seat as such in 1887. His service upon the bench was from the first highly acceptable. His readiness of apprehension, together with his careful attention and consideration of the questions presented to him, led very uniformly to correct decisions. His prompt attention to business and the disposition of questions submitted were among the notable qualities of Judge Carr, in the discharge of his duties

on the bench. At the close of his first term on the bench he was re-nominated unanimously and re-elected without opposition. He resigned his position in the fall of 1894 and removed to Des Moines, where he resumed the practice of the law in partnership with A. C. Parker, under the firm name of Carr & Parker. The success of that firm in Des Moines has been phenomenal in acquiring a large business, and in its satisfactory disposition. It is safely one of the very leading firms in the capital city. Judge Carr was elected by the people of Polk, the capital county of the state, to represent them in the legislature for one term, which he did most ably and satisfactorily. Judge Carr is a man of most decided ability, careful and attentive to his cases, conscientious and upright in his intercourse with the court and the profession, and he has exerted a most beneficial influence upon the jurisprudence of the state.

Alonzo C. Parker is a native of Indiana, but acquired his education in Iowa, including a course at the Iowa State University, from which he graduated in 1876. He studied law and located at Spencer, Iowa, in the practice of his profession. He acquired practice and business with quite more than the usual facility, and in its discharge manifested an ability and learning which made his business a constantly growing one. In 1886 he was elected to the office of county attorney, and he was continued therein for a period of eight years. This continuance is an assurance of the ability and fidelity manifested by him in the discharge of the duties of that office. Mr. Parker became the leader of the bar in his county and district. He removed to Des Moines in 1894 for the purpose of the partnership and the practice of the law there with Judge Carr. Mr. Parker is a man thoroughly read in the law, very close and analytical in his study and application of the law, and, with his capacity for presenting to the court or jury his cases, he is an unsurpassed all around lawyer.

His high character as a man gives additional force and prominence to his standing in the profession.

CHAPTER XLIII.

NOTICES OF ATTORNEYS.

Alfred H. McVey was born in Ohio and there acquired his education, not only common school and academic, but also a college course at the Ohio Wesleyan University, from which he graduated in 1868 with high honors. After spending some time in teaching, he commenced the study of law, and he completed a thorough course in the law department of the Cincinnati College. The course of study which we have outlined was interrupted by the Civil War and the enlistment by Mr. McVey as a volunteer in the Seventy-ninth Ohio infantry, wherein he rendered loyal and faithful service. After acquiring a thorough knowledge of law, he first entered the practice at Wilmington, Ohio, where he met with encouragement not only, but with success. Later, however, he removed to Toledo, where he added to his practice in the state courts quite an extended business in the United States courts, and was for years counsel for the Toledo, Cincinnati and St. Louis Railroad company. The attractions of the West were so strong that in 1883 Mr. McVey removed to Des Moines and there entered upon the practice of his profession. His extended and thorough literary course, together with his broad knowledge of the law, greatly extended by his experience in the practice, enabled him to secure a good practice in his new location and for many years he and his firm did a very extended and lucrative business. At one time Mr. McVey was transacting the general business for seven of the largest and most popular insurance companies, and was thus afforded a most extended expe-

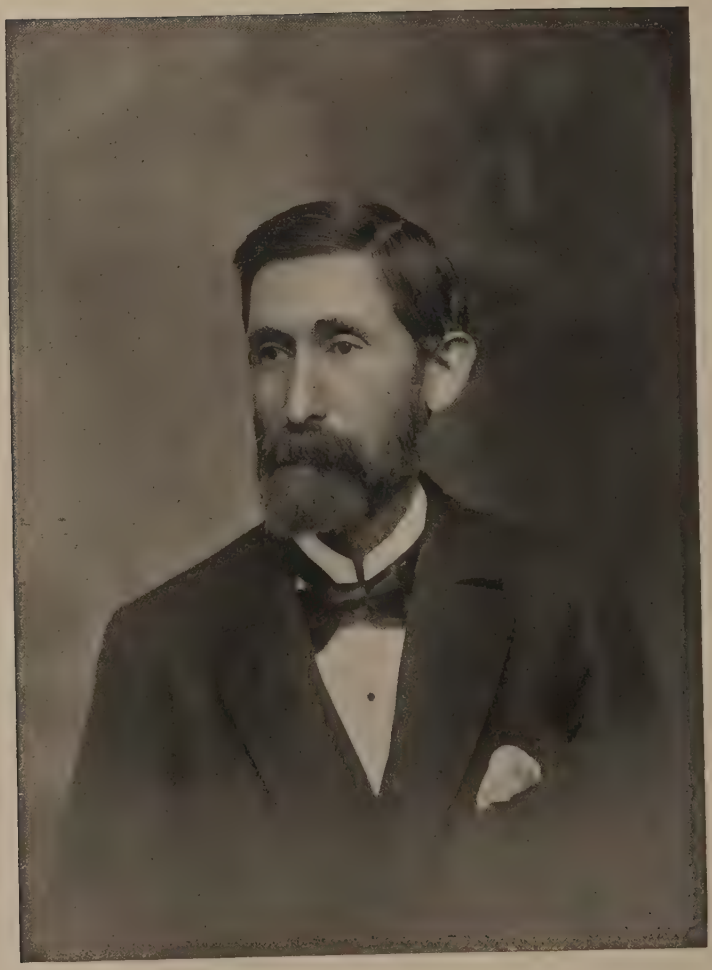
rience in practice in insurance law, and was recognized as authority on all questions connected therewith. He devoted himself exclusively to the practice of the law until 1902, when he was elected judge of the district court of the Ninth judicial district, it being the capital county of the state. Mr. McVey was a very close student of the law, careful and thorough in the preparation of his cases, and his ability as a speaker enabled him to present, either to the court or the jury, with directness and great ability the questions involved. Mr. McVey is a conscientious, faithful and able lawyer, and he administered the law from the bench with dignity, integrity and impartiality.

George L. Godfrey was born in Vermont and was there thoroughly educated in the common schools and academy. In 1855 he came to Iowa, stopping for a time at Dubuque, where he was engaged in teaching, and later he removed to Des Moines, where he pursued the study of the law, and was admitted to the bar in 1860. He was engaged in the practice of the law until the breaking out of the Rebellion. In May, 1861, he enlisted as a private in Company D of the famous Second Iowa infantry. He was promoted to second lieutenant, then to first, and then to adjutant of the regiment. He served with distinction in the battles of Fort Donelson and Shiloh, and continued in the service till the close of the war, taking part in very numerous battles. At Corinth two horses were shot under him. Later he was promoted to the position of lieutenant-colonel of the First Alabama cavalry, with which he completed his service, including taking part in Sherman's March to the Sea. Upon his return to Iowa, he was elected a member of the house of the Eleventh general assembly, and he served with fidelity and ability. At the close of the session he entered the practice of the law and continued the same for several years. He served as city solicitor for Des Moines, and also as assistant United States district attorney for many years. In 1882 he was

appointed by President Arthur a member of the Utah commission, to which he gave continued attention for many years. The commission was composed of five persons, whereon Colonel Godfrey served twelve years, the last four, as president of the commission. He was also one of the commissioners for the erection of monuments on the battle field of Shiloh. He is now the surveyor of the port of Des Moines. Colonel Godfrey is a man of decided ability, and he has always evinced the utmost fidelity and faithfulness in the discharge of every duty, whether as a lawyer, a legislator, soldier or citizen. He wields a potent influence in public affairs in the capital city.

Evan C. Stevenson was born in Kentucky, where he acquired a thorough education, which was completed by a regular course and graduation at the Georgetown College, located in his native city. He also studied law in his native state and was admitted to the bar. He came to Iowa in 1881 and located permanently at Rockwell City and engaged in the practice of the law. He early acquired a good practice and has maintained it uniformly, with a healthful growth in both the amount and the character of the business done. He has served three terms as county attorney for his county and has been mayor of the city. His practice includes the local attorneyship for three railroads running through his city and county. Mr. Stevenson is a conscientious, earnest, faithful worker in his profession, and has attained recognition for ability and success in the conduct of his business. He is at the front of the bar in his county and district.

Thomas F. Stevenson, the older brother of the subject of the foregoing, was also born in Kentucky and acquired his common school and academic education in his native state, and he graduated from Harvard College, Massachusetts, in 1879. He also studied law in his native city and was admitted to the bar there, and later he removed



W. O. Blake

to and settled permanently in Des Moines, Iowa, where he has since resided. He entered at once upon the practice of the law and acquired a remunerative practice and a reputation for ability, learning, integrity and attention to business, which resulted in his being elected to the bench of the district court for his district, embracing the capital county of the state. Judge Stevenson retired from the bench after service of one full term and resumed the practice of the law. He is a faithful, conscientious man of recognized integrity. His influence is all for the best in life.

John A. Nash was born in Des Moines, where he received a good education, including a graduation from Des Moines College, after which he graduated from the Iowa College of Law at Des Moines, and was admitted to the bar in 1876. After spending some further time in study in an attorney's office at Des Moines, he located in Audubon and there opened an office and engaged in the practice of the law. He has always done a good, remunerative business and has recognition, not only as a man of ability, but as a lawyer of thorough learning and integrity. No man stands higher at the bar in his county and district than John A. Nash.

Wm. E. Blake was born in Ohio, but acquired his education mainly in Iowa, attending the common schools and academy in Iowa, and graduating from Monmouth College, in Illinois. He also completed a full course of legal study in the Iowa College of Law. He located at Burlington and engaged in the practice of the law, and from 1869 to the present time has been continuously engaged in the practice there. A portion of the time he was in partnership with Judge Newman, the firm being Newman & Blake, but continuously from the date last specified down to the present time, whether in partnership or alone, he or his firm has occupied the very front line in the profession, whether in the amount of business, the character

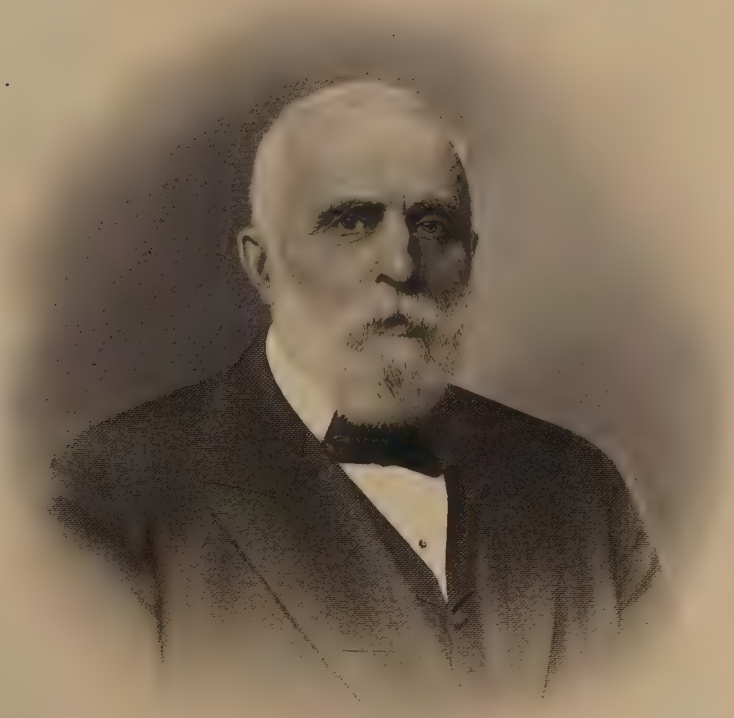
of business or the ability, fidelity and integrity manifested in its discharge. Mr. Blake is a thorough lawyer, a public spirited and active man and a most conscientious and upright citizen.

CHAPTER XLIV.

ACCESSION OF JUDGE ROBINSON, ALSO JUDGE GRANGER, ETC.

At the close of the year 1887 the regular term of Judge Adams, including his re-election for the second term, expired, and his successor was elected at the preceding election and took his seat at the opening of the January term, 1888.

Gifford S. Robinson was born in Illinois, where he acquired his education, including common and high school, and also a course in the Illinois State Normal University. This education was further supplemented by several years in teaching in the University. In August, 1862, he volunteered as a private in the One Hundred and Fifty-eighth Illinois infantry, and, during his service he was engaged in numerous battles, among which were Franklin and Chickamauga, where he was severely wounded, and in consequence of which he was, later, honorably discharged from the service. After he had returned from the army and had regained, in a measure, his health and strength, he studied law in Washington University, and graduated in the class of 1869. In 1870 he removed to Iowa and located at Storm Lake, where he opened an office and entered upon the practice of his profession. He secured a remunerative business from the first, which grew in volume, and therewith his reputation enhanced. Mr. Robinson was well fitted by his literary culture and his thorough legal learning, to which he added persistent industry, for

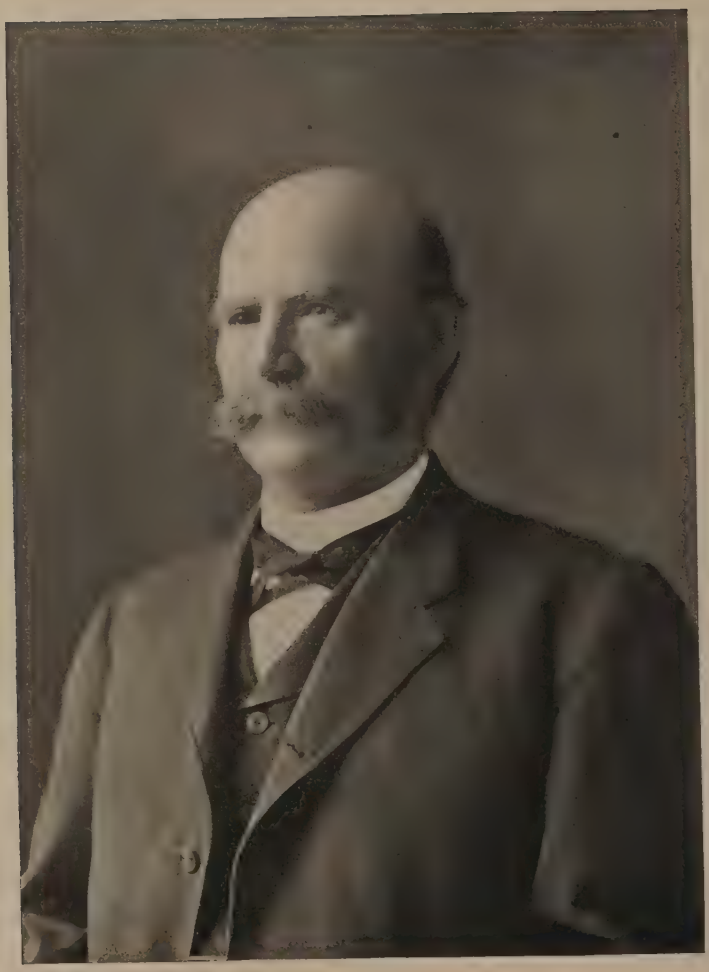


Very truly yours,
C. S. Robinson.

the full and satisfactory discharge of his duties in connection with any business which might come to him. In 1875 he was elected to the house of the Sixteenth general assembly, representing his district consisting of four counties. His services as legislator added to his reputation, and upon his return from the capital he resumed his practice, which was continually augmenting. In 1881 he was elected to the senate for his district, then composed of six counties, including Woodbury and Plymouth. He served the full term of four years as senator with ability and great efficiency. He acquired a reputation from his previous service in the house, and his legislative experience gave him broader opportunities for service in the senate than otherwise. In 1887 he was nominated for judge of the supreme court, and was elected to succeed Judge Austin Adams, whose term expired on the first of January following, at which time Judge Robinson took his seat upon the bench. During his term of service, which included a re-election, making his entire service upon the bench twelve years, he lectured in the law department of the Iowa State University. He brought to the discharge of his duties as judge good ability, sterling integrity and a mind by nature fair and judicial. He was very faithful and industrious in the investigation of his cases, and his opinions evince a purpose to reach and fairly dispose of every question presented in such manner as to administer justice under the rules of the law. No man was more faithful or untiring in the discharge of his duties than Judge Robinson. To his natural equipoise and impartiality he added a conscientious purpose to attain the right. Judge Robinson was a man of high character and always commanded the respect and regard of those with whom he came in contact. After he retired from the bench, he resumed the practice of the law in Sioux City, but was permitted to continue it for but a very brief time, when he was appointed a member of the State Board of Control in

February, 1900, in which position has been continued ever since. Judge Robinson has evinced in that new and executive position the abilities and characteristics pre-eminently fitting him therefor.

At the May term, 1888, the case of Griffin v. Harriman (74 Iowa, 436), came before the supreme court for decision. The case in the court below was this: The plaintiff sought to recover for the use of land, and the value of the rental thereof was the chief question of fact in the case. In the court below the jury rendered a verdict in favor of the plaintiff for twenty-five dollars. This was much less than the plaintiff demanded, and he filed a motion for a new trial. In support of his motion, he presented the affidavits of jurors, stating, in substance, that one J. P. Smith, who was a trial juror on said case, after the jury got in the jury room to deliberate on the verdict, stated that he was personally acquainted with the premises in controversy and that the land was very poor land to his personal knowledge; and he used said alleged fact in argument for the purpose of influencing the jury to find for the plaintiff in the sum of twenty-five dollars; and the jurors stated in their several affidavits that said facts influenced them in rendering a verdict as rendered in the case. The court below overruled the motion for new trial and rendered judgment upon the verdict, from which the plaintiff appealed. On the appeal, Robinson, Justice, prepared the opinion of the court, and therein decided that the statements made by the jurors that they were influenced by what Smith said was a matter which inhered in the verdict and could not be proved by affidavits of jurors. "But the affidavits also show that Smith made statements to the jurors in regard to the quality of the land in controversy. These statements were made from personal knowledge, and tended directly to support the defendant's side of the case. The value of the use of the land depended, in part, upon the quality. Hence that was



A. E. Swisher

a material issue. The plaintiff contended that the land was good, and the defendant that it was poor. The evidence in regard to its quality was conflicting. Hence the statements of Smith, made from personal knowledge, could hardly have been without weight. The jury were bound to determine the case upon the evidence admitted by the court, and cannot be permitted, by adding evidence, to make a case different from that which they took with them to their room." The judgment was reversed.

A. E. Swisher was born in Johnson county, Iowa, and acquired his education there, including common school, high school and a full course in the collegiate department of the Iowa State University, from which he graduated in 1872. After spending some time in teaching, he entered the law department of the State University, and graduated therefrom. Mr. Swisher then entered upon the practice of his profession in the capital city of his native county and has continued practice there ever since. The biblical phrase so often quoted that "A prophet is not without honor save in his own country" does not apply to Mr. Swisher, either in its letter or in its spirit, for he has attained to the highest reputation and the best honors in the profession in the state and in his own home county. Mr. Swisher has devoted most of his attention to the corporation law and is proficient therein. As a business man as well as a lawyer, and in every view, Mr. Swisher stands confessedly high. He is prominent in local affairs and contributes much to the aid of all local enterprises. An able lawyer, a wise and safe counselor, and a conscientious and upright man.

George W. Paine, a native of New York, where he acquired his education and his professional learning, and something of his large and varied experiences, has long been a leading and successful lawyer, resident in Carroll county, but conducting business throughout the district and the state. He was elected to the bench of the district

court in his district and served one full term. As a lawyer, Judge Paine is thoroughly read, has large experience and a sound practical judgment. As a judge, he evinced the same qualities, and his industry, which is ever present and abiding, his impartiality and innate love of justice enabled him to attain substantial justice for litigants before him. Judge Paine is a man of decided ability, of unquestioned integrity and thoroughly conscientious and upright.

M. W. Beach was another lawyer located at Carroll, with respect to whom we are without data, as we were in the last notice. But we knew Mr. Beach for many years and kept close watch of his business and conduct as a lawyer. His advantages for a liberal education were limited, and he acquired a knowledge of the law by his own innate persistence and industry and secured a remunerative business, which he maintained for years. He gave the most considerate and careful investigation to his cases, and was persistent in his efforts to secure justice for his clients, and he made his impress upon the local jurisprudence in his district.

George Crane, a lawyer located at Dubuque, Iowa, settled early there, sometime in the fifties, and, by reason of his liberal education and his thorough knowledge of the law, he built up a large and lucrative practice. He was for many years the attorney for the Illinois Central Railway Company and other corporations, and came to be recognized as a leading, competent and successful corporation lawyer. His business, outside of corporation business, was not limited. No man ever gave more strict, thorough and close attention to his cases than did Mr. Crane, and his presentation of his cases to the court was always lucid and exhaustive. Mr. Crane was a man of most excellent character, taking a prominent part in semipublic matters interesting to his fellow citizens. No man stands higher personally or more deservedly than George Crane.

John N. Baldwin, a native of Council Bluffs, Iowa, and

by heredity a lawyer, since he is the son of Judge Caleb Baldwin of the supreme court of Iowa, of whom we have before written, acquired a thorough common and high school education in his native city. Later, he entered the law department of the State University and graduated with high honors in 1877, before he attained his majority. As soon as he attained his majority he was admitted to the bar and began to practice his profession in Council Bluffs. With his personal advantages and the education we have suggested, it could not be otherwise than as it was, that he soon secured a remunerative practice and later a most lucrative one. He became the leading lawyer in his city, and was the attorney for the leading corporations located or doing business there. By his extended reading and continuous study, as well as by his natural endowment, he came to be recognized as one of the best speakers at the bar. As such, he was called upon to nominate Senator Allison as a candidate for president in 1896, and also to speak upon various other important occasions. Mr. Baldwin was among the best of our Iowa products, and by reason of his great excellency he has been called away from us to larger fields, where he is gaining new laurels.

The term of Judge W. H. Seevers, including his re-election, making in all for him a service approximating thirteen years, expired December 31, 1888, and he retired from the bench of the supreme court at that time.

Chas. T. Granger was, in the fall of 1888, elected judge of the supreme court to succeed Judge Wm. H. Seevers, whose term of office expired at the close of that year. Mr. Granger was a native of Monroe county, New York, but removed, when a child, with his parents to Waukegan, Illinois, where he obtained his education, including common and high school courses, the latter of which he took in the academy at Waukegan. He early determined, in his own mind, that he would study law, and, following that

thought, he did much of private reading during his other employments, one of which was teaching school. In 1860 he went to Waukon, Iowa, and became a student at law in the office of Judge Hatch and his partner. He was admitted to the bar in the fall of 1860. He went to Mitchell to accept a position as superintendent of schools there, and he continued in that position till August, 1862, when he volunteered and was elected captain of Company K of the Twenty-seventh Iowa Infantry. He served the balance of the war, making three years of service, in which service he was engaged in many battles, always doing fully his duty. Upon his return from the army, he located at Waukon and entered upon the practice of his profession, at first in partnership with his former preceptor, Judge Hatch. The firm did the leading business in the county, Mr. Granger fully keeping up his part and line of it, and the business itself growing constantly. In 1868 he was elected district attorney for his district, and he served in that position till 1873, when he was elected judge of the circuit court for his district. His services upon the bench of the circuit court were especially able, considerate and satisfactory, so much so, indeed, that he was three times re-elected, making his full service approximate fourteen years. He was then elected district judge and entered upon his duties as such. This election to the bench of the district court in the same district where he had presided for such a length of time as judge of the circuit court, the duties of each office being substantially the same, became the most complete and satisfactory evidence of the ability, integrity and impartiality which he had manifested in the administration of his judicial duties. Indeed, Judge Granger is endowed by nature with a judicial mind, always fair and impartial, and with a naturally broad, comprehensive and non-partisan view. Before he had served out half his term as district judge, he was nominated and elected judge of the supreme court, and he entered upon

the duties of that office at the beginning of 1889. The long judicial training and education which Judge Granger acquired in his service upon the circuit and district benches contributed much to fit him for the higher and broader duties of the appellate bench. Judge Granger's opinions invariably evince his breadth of capacity and his judicial trend of thought, which characteristics, coupled with his persistent and untiring industry, assured the success which he has most certainly attained as judge of the supreme court. Judge Granger has always had the confidence of the bar and people of his district and of the state. He is not only a man of sterling and unquestioned integrity, but he is recognized as a conscientious, exemplary and most honorable citizen. His contributions to the jurisprudence of Iowa are of the greatest worth.

Directly after Judge Granger had entered upon his duties, in January, 1889, the case of Cox v. The Mason City & Fort Dodge Railway Company, 77 Iowa, 20, was decided by the supreme court. The opinion was prepared by Granger, Justice, and decided a question not before determined in the state, if, indeed, it had been determined anywhere. The point determined was this: Where all the town lots in a block were owned by plaintiff, and defendant located its road over some of them only, plaintiff was not limited in his recovery to the damage done the lots touched by the right of way, but was entitled to prove and recover the damage to the whole block (Reed, Chief Justice, dissenting).

In another case which came before the court in May following, to wit, the case of Richman v. Supervisor Muscatine county, 77 Iowa 513, a very novel question not before decided came before the court. Granger, Justice, prepared the opinion therein also. It was decided that where a demurrer to a petition for a writ of certiorari is overruled, and the defendants make a return to the writ as required by its terms, and, on the trial of the issues made

by the return, questions legitimately arise which were involved in the issues presented by the demurrer, and after the determination of the demurrer there is a change in the judges of the court, it is the duty of the court as then constituted to pass upon such issues, and if in that case the court holds at variance with the ruling on the demurrer, the last ruling must be the controlling one in that court.

William G. Harvison was a native of New York, but acquired his education, common school, high school and academic, in Illinois. This education was supplemented by five years of teaching, during which time his industry enabled him to acquire a broad culture. He studied law in Des Moines, being a clerk in an office and pursuing the study contemporaneously. He also attended a full course in and graduated from the Iowa College of Law. He entered upon the practice of the law in Des Moines, and from the first had a remunerative practice which constantly increased, both in the number of cases and in their importance, and for more than a quarter of a century he has been recognized among the leaders of the bar in the capital city of the state. He has confined himself to the civil practice and, being connected with numerous banks and other institutions, has had a large collection business. Mr. Harvison is a man of untiring energy, of decidedly broad culture and thorough in his legal learning, and with all is a strong advocate. A strong lawyer, always faithful, never neglecting his cases or failing to give to them the most thorough preparation.

Solomon F. Prouty was born in Ohio and removed with his father's family to Knoxville, Iowa. He was educated at the public schools and at Simpson College, Indianola, and the Central University at Pella, from which he graduated in 1877. After his graduation he spent some four years in teaching in the Central University, during which time he was elected a member of the house of representatives in the Iowa legislature, and, notwithstanding

the fact that he was the youngest member of that body, he was comparatively a leader in the house and was active in connection with many lines of legislation. During his teaching in the University he studied law, and afterwards pursued the study still further, and was admitted to the bar in 1882. He began practice at Pella and acquired, with great readiness, a remunerative practice, which he continued there for some eight years, and then removed to Des Moines, where he formed a partnership with I. M. Earle, under the name of Earle & Prouty. This firm did a leading business at the capital city and ranked among the leaders of the bar there. After practicing for eight years at Des Moines, he was elected one of the district judges for that district. Judge Prouty's thorough literary education and full knowledge of the law enabled him to attain success on the bench as he had at the bar, and his administration of that office was with decided ability, unquestioned integrity and great satisfaction to the bar and the people. Mr. Prouty has also attained great success as a business man and a financier.

Crom Bowen was born in Vermont and there educated in the common schools, and he acquired his academic education at Kimball Union Academy, New Hampshire. He also studied law in his native state and was admitted to the bar there. He came to Iowa and settled at Des Moines, where he began the practice of the law in 1870. Mr. Bowen's practice of the law has been, almost continuously, in partnership with others, and he and his firms have uniformly had a good, remunerative and excellent business. He is an industrious, painstaking and careful lawyer, giving continued and persistent attention to the preparation as well as to the trial of his cases. He has been continuously in the practice in Des Moines for thirty-seven years, his present firm being Bowen, Brocket & Weldy, which firm ranks well among the leading firms of the city. Mr. Bowen is a man of excellent character, and

he has given considerable attention to education and other public matters. He was for many years a leading member of the school board in West Des Moines, and was very active and efficient in efforts to advance all educational interests.

John H. Henderson was born in Warren county, Iowa, where he acquired his education in the common school and high school and at Simpson College, located at Indianola, his native town, where he has continuously resided from his birth. He studied law and was admitted to the bar in 1870. Directly thereafter he entered upon the practice of the law at Indianola, and from the beginning his practice was remunerative and came to be very extended and lucrative. Mr. Henderson has always been a close and thorough student of the law and is confessedly the leader of the bar in his county and district. In 1885 he was elected judge of the circuit court for the Fifth judicial district, and he served in that capacity two years and was then elected district judge, and his administration of the office for the first term was so entirely satisfactory that he was re-elected for the second term, which he served with equal fidelity, ability and integrity, and declined a second re-election. He returned to the bar and resumed the practice of his profession, in which he has been engaged continuously and successfully since. Judge Henderson is one of the first citizens of his city and county, always taking an active part in public matters promising good and advancement to the people, and he has been a trustee and a very vigorous aid to Simpson College. He enjoys the confidence, respect and esteem of all who know him.

Seward Smith was one of the early and industrious lawyers of the capital city of Iowa. He came to Des Moines and began the practice of the law in the sixties. He was a close student of the law and gave devoted attention to business which came to him, and he always afforded satisfaction to his clients. His field of preference and

largely of service in the profession was in office work and in the preparation of cases for trial, and yet he was also a good trial lawyer. He was appointed one of the territorial judges for North Dakota and rendered conspicuous service as judge in the history of that territory. Judge Smith was an unassuming and modest man, and yet he made his mark in the fields of his judicial service.

As was stated, in connection with the notice of Judge Reed upon his accession to the supreme bench, he resigned his position before the close of his term in order to accept a nomination and election to congress from his, the Ninth, congressional district of Iowa. Judge Josiah Given was, on March 12, succeeding the taking effect of such resignation, appointed by Governor William Larabee to fill the vacancy thus created.

CHAPTER XLV.

ACCESSION OF JUDGE GIVEN; CASES; NOTICES.

Josiah Given was born in Pennsylvania, and when ten years old accompanied his parents in their removal to Ohio, where he acquired his education in the common schools of that state. Before attaining majority he enlisted as a drummer in the Fourth Ohio infantry and served through the Mexican war. Upon his return from that war he began the study of the law and prosecuted it till 1850, when he was admitted to the bar. He commenced practice as partner with J. R. Barcroft, with whom he had pursued its study. This partnership afforded him a remunerative business from the start, and that practice was continued with constant augmentation until the beginning of the War of the Rebellion. Mr. Given then volunteered and was made captain of a company in the Twenty-fourth Ohio infantry, and served for a time as such. He

was later, in the fall of 1861, promoted to lieutenant-colonel of the Eighteenth Ohio infantry, and afterwards, in 1863, was appointed colonel of the Seventy-fourth Ohio infantry. He was in the Atlanta campaign, and was made brevet brigadier-general and served in that capacity until the fall of Atlanta. He continued in the service until the close of the war, having been engaged in very many battles, and always serving with gallantry and approval. He was made postmaster of the United States house of representatives for the Thirty-ninth congress, and served also, later, as commissioner of internal revenue. He removed to and settled in Des Moines in 1868, and there resumed the practice of the law, having from the first a desirable and remunerative business. He continued the practice, which encouragingly increased, till 1880, discharging the duties of prosecuting attorney for the district for one term in the meantime. His services as prosecutor were eminently satisfactory to the people of the district as well as to the bench and bar of the court wherein he was prosecutor. In 1880 he was elected to the bench of the circuit court, which was a court created by the statute for the purpose of disposing of the accumulation of business which had grown to be more than the district courts could dispose of, and that court had the same jurisdiction in civil matters as had the district court. Later, it was determined to repeal the circuit court law and increase the number of district courts, since thereby the judicial business could be satisfactorily transacted with less expense, because there would be less courts than existed under the continuance of the law establishing the two classes of courts. Judge Given served on the circuit bench with very marked satisfaction because he always manifested that measure of ability, fidelity and integrity requisite for its wise disposition. At the close of his service on the circuit bench, he was elected to the district bench, whereon he commenced his service at the beginning of 1887 and served until his

appointment to the supreme bench March 12, 1889. By reason of the fact that Judge Reed, at the time he closed his service, was in the last year of his term and chief justice of the court, Judge Given became chief justice by succession, immediately upon his entering his service on the supreme bench. He was elected to fill out Mr. Reed's unexpired term, and was twice re-elected, so that his entire service embraced substantially thirteen years. Judge Given's service on the bench of the supreme court was characterized by the same ability, fidelity and industry which had made him the successful lawyer, prosecutor and judge on the nisi prius bench. Judge Given's versatile and extended experiences, together with his thorough and practical knowledge of the law, fitted him well for the discharge of his every duty in connection with his new position. Judge Given was a very excellent and popular speaker, and his pre-eminent claims to recognition as a soldier by reason of his faithful and continued service through two wars endeared him very especially to the soldier element of the community, and his services as such soldier called out towards him the grateful consideration of the balance of his fellow citizens. Judge Given was a conscientious Christian man and always did his duty faithfully.

At the January term, 1890, the case of Porter v. Powell (79 Iowa 151), having been theretofore submitted, came on for decision and announcement thereof. The opinion was prepared by Given, Justice. The case was this: The defendant's daughter, at the age of fourteen, went to reside away from her father's house, at a place thirty miles distant, where for three years she contracted for, earned and controlled her own wages, and provided herself with clothing; defendant consenting thereto, and not furnishing, nor agreeing to furnish, her with any money or means of support. While thus absent she was dangerously attacked with typhoid fever, and at her request was attended by the plaintiff as her physician for a period of twenty-one

consecutive days, which services were rendered without the procurement, knowledge or consent of defendant. The court decided that it is the legal as well as moral duty of parents to support their children during minority; and though a parent can not be charged for necessaries furnished by a stranger for his minor child, except upon an express or implied promise to pay for the same, such promise may be inferred on the grounds of the legal duty imposed; that the facts of the case show the continued existence of this duty on the part of the defendant parent, since they show only a partial emancipation, and not such a total emancipation as will exempt the defendant from actual necessaries furnished to his daughter; and the services were shown to be necessary under the circumstances. This was in accord with the decision of the court below, and the judgment was affirmed.

Samuel S. Wright, a native of Iowa, where he acquired his education, common and high school, and graduated from the Upper Iowa University in 1886, added to and broadened this learning by engaging as principal of the public schools of Fayette, and continuing therein for three years. After this he entered the law department of the Iowa State University and graduated therefrom in 1890. He located at Tipton and entered upon the practice of his profession there, wherein he early acquired a good business, which has grown with his growth, and into which he has accepted his brother as a partner, and the firm continues to do the leading business of the county. Our subject served for three terms as county attorney, which was done with fidelity and efficiency. In 1898 he was elected secretary of the State Bar Association, and he continued service as such for about eight years, in which office he was most efficient, faithful and popular. Mr. Wright is a man of most excellent character, which he evinces in the conduct of the business of his profession, wherein he is a leader.

Fred W. Lehman, a native of Germany, came in early infancy with his parents to Cincinnati, Ohio, remaining there some time, and, losing his parents there by death, he came to Missouri and later to Fremont county, Iowa, where he acquired his education largely. Having had some common school instruction, he took a thorough and prolonged course in Tabor College, so that his education, amid all the struggles and adversities of life, became very thorough. He was naturally fond of books and of reading, and he much broadened his culture by his unusual studiousness. He studied law at Sidney, and was admitted to the bar in Iowa, coming to Des Moines about 1875. At first he was in partnership with Hon. J. A. Harvey, register of the state land office, and they did a remunerative business at Des Moines, which was continued for a time, they acting as attorneys for the American Emigrant Company and other corporations. Mr. Lehman is a man of original thought, thoroughly logical, and will evolve from his own consideration very correct conclusions. He continued practice in Des Moines by himself for several years, doing a very remunerative business and attaining a recognition at the bar most honoring and honorable. Later, about 1890, he removed to St. Louis, where he was appointed counsel for the Wabash Railway Company, and where he early obtained recognition as a learned and able lawyer. His firm in St. Louis is one of the leading firms of that city and state, and Mr. Lehman himself is prominent in many public affairs. In the St. Louis exposition he was among the leaders of the local committee, and during the continuance of that exposition he made himself pre-eminently useful. Mr. Lehman is a man of very high character, thoroughly conscientious, always industrious and laboring for the best.

CHAPTER XLVI.

NOTICE OF JUDGE KINNE AND ATTORNEYS.

John Mitchell was born in New Hampshire and obtained his education there. He fitted for college in the Kimbal Union Academy and entered Dartmouth College, where he remained to the close of the sophomore year, and was prevented further attendance by impaired health. He located in Des Moines in 1856, where he completed the study of law, and was admitted to the bar in 1857. He commenced practice at once, and continued in the profession all his life. Mr. Mitchell had some personal advantages growing out of relatives engaged in business, and he did a good practice. In the fall of 1861 he was elected to the house of representatives in the legislature of Iowa to represent Polk county. His service in the legislature was very efficient, and at a time too (1861) when courage and activity were at a premium. The breaking out of the War of the Rebellion cast added duties upon every legislator, and Mr. Mitchell was equal to the emergency. He continued the practice of the law. and was appointed register in bankruptcy in 1867, in which position he served with fidelity. He was elected to the circuit bench of the Fifth judicial circuit in the fall of 1869 and entered upon his duties as judge in the January following. His administration was so satisfactory in every way that he was twice re-elected without opposition, making his service twelve years. Judge Mitchell was by nature well fitted for the bench. His mind was essentially of a very judicial turn, naturally impartial. He had good natural ability, was very ready of apprehension, and of considerate and judicial judgment. He was a man of the most sterling integrity, faithful, industrious and conscientious in the discharge of every duty.

George W. Seevers was a native of Ohio, but came with his parents to Mahaska county, Iowa, when a mere boy, and obtained his education there in the common schools and the high school of Oskaloosa, and completed a college course in the Oskaloosa College, from which he graduated with honors. He studied law with his uncle, Judge W. H. Seevers, and later took a thorough course in the law department of Michigan University. He began practice in Mahaska county and continued there for a short time, and then removed to Indianola, in Warren county, and there continued the practice in partnership with P. Gad Bryan, the firm name being Bryan & Seevers. The firm did a large business and they were the leaders of the bar of that county. The practice of the firm was not confined to Warren county, but extended to the other counties of the district, embracing Polk county, which was then a part of it. After Judge Seevers retired from the supreme bench in 1889, Mr. Seevers returned to Oskaloosa and resumed the practice of the law in partnership with him. The firm became the attorneys for the Iowa Central Railway and other railways entering Oskaloosa, and continued as such until the dissolution of the firm by the death of Judge Seevers. Thereafter George W. Seevers became the general counsel for the Iowa Central Railway Company, and later became general counsel also for the Minneapolis and St. Louis and its associate lines; and a few years since he removed his office as general counsel to Minneapolis, and he still holds those positions. As a practitioner of the law, George W. Seevers stands very high because of his native ability, his very thorough legal education, and for the careful and very critical consideration which he gives to his cases. These characteristics have made him a very pronounced success in his position as general counsel for the several railroads. He is essentially and always a considerate and fair man, and manages the affairs of his companies with great prudence and wisdom.

The third term of service of Judge Beck on the supreme bench terminated with the year 1891, and at the fall election held in 1891 his successor was elected.

La Vega G. Kinne was born in New York and there obtained his common and high school education. He studied law in Michigan, having taken a full course in the law department at the State University at Ann Arbor, from which he graduated in 1868. He was admitted to the bar at Ottawa, Ill., the same year. The next year he removed to Iowa and located at Toledo, in Tama county, and there entered upon the practice of his profession. His thorough qualifications for the practice and his persistent and ever continuous studiousness brought him a good practice very soon, and it continued to increase in volume and revenue yielding until he was elected to the district bench in 1886. He entered upon the discharge of his duties of such district judge at the beginning of 1887, and his discharge of the duties of that office was characterized by great ability, devoted attention to duty and eminent satisfaction to the bar and people. After serving about two years as district judge, he resigned his position and accepted for a short time the position as editor of the Daily Leader at Des Moines, which he conducted for approximately two years and retired therefrom and returned to Toledo and resumed again the practice there. In the fall of that year he was again elected judge of the district court for the Seventeenth judicial district. He continued to serve as district judge until he was elected to the bench of the supreme court, which election was in the fall of 1891, his duties commencing in the following January. He served the full term of six years on the bench of the supreme court with great ability, faithfulness and acceptability. Judge Kinne was a man endowed with very strong mentality, his literary and legal education were alike very thorough. He was untiring in his industry and devotion to his duty, and came to be recognized as among the

L. G. Kinne

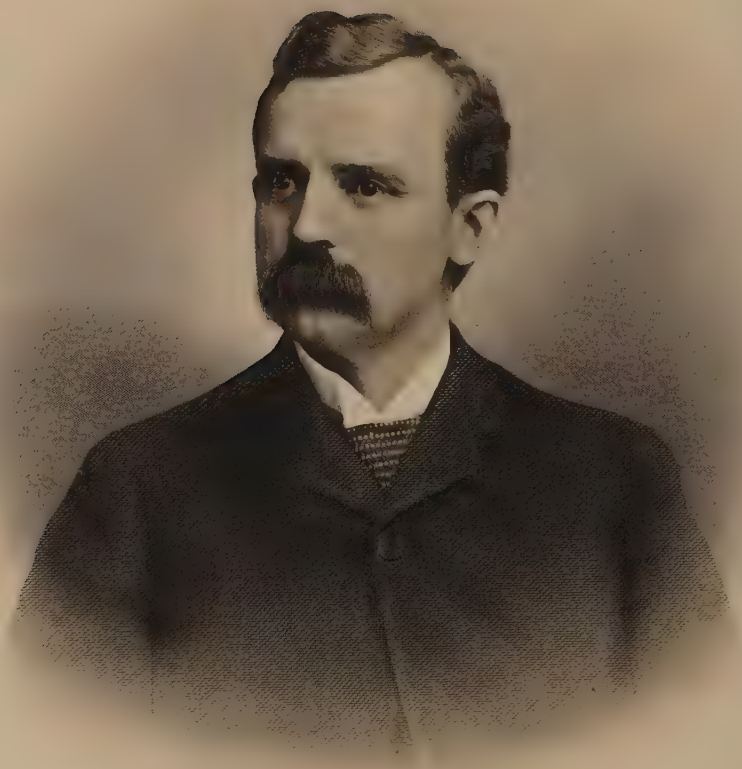
strongest and best of Iowa's supreme court judges. Judge Kinne was naturally aggressive, was thoroughly conscientious, and the diction of his opinions was always strong and perspicuous. In addition to his legal and judicial labors he added the labors of legal authorship. He was always industrious and never contented except when pressed with appropriate work for him to do. He prepared a work known as Kinne's Pleading and Practice, which at once became recognized as a standard and reliable work, and was quoted by the bar and accepted by the bench as authority. After the close of his service on the bench he was appointed a member of the board of control, and he entered upon the duties of that office and became very prominent both at home and abroad in connection therewith. It is not a little remarkable that, out of a board of three members composing the board of control, two of them should have served their terms upon the bench of the supreme court as judge and chief justice, and thereafter distinguish themselves as members of the board of control, where almost every duty is purely executive and practical. Surely it may be said, in view of these facts, that a thorough knowledge of the law and extended experience in its administration, qualifies one for almost any duty to which he may be called. Judge Kinne has left his indelible impress upon the jurisprudence and history of Iowa.

At the May term, 1892, a case was decided by the Supreme Court involving the question of the power of a city, already indebted to an amount beyond the limit specified and fixed by the constitution, to bind itself through the issuance of a warrant by its executive officers. The case was entitled Hintrager v. Richter, 85 Iowa, 222. The case was this: Certain lots had been sold for taxes, wherein the city was largely interested. After the lots had been sold and a certificate issued and assigned, an arrangement was made whereby these taxes were paid to

the city, and the city issued its warrant for the payment of a sum only about half as much as was paid into its treasury by and under the agreement; and the question was presented as to the validity of this warrant, or whether its issuance was ultra vires. The opinion in the case was prepared by Kinne, Justice, and it decided that where in the course of a transaction a city, already indebted in excess of the institutional limit, by assuming an obligation due from a taxpayer, was enabled to realize a sum more than double the amount of the obligation assumed, a warrant issued for the amount of the obligation assumed was not void, but was valid, and could be enforced as such.

Charles A. Dudley was born in Ohio and received his preliminary education there in the district schools and at Eclectic Institute. He then entered the collegiate department of the Michigan University, from which he graduated in 1865. He studied law in an office in Ohio for a time, and then took a full course in the law department of the Michigan University at Ann Arbor. He then (1867) removed and settled in Des Moines and was there admitted to the bar, and entered upon the active practice of his profession. He was a part of the time in partnership, and a part of the time alone. He has continued the practice of the law for forty years, during all which time he has had a large and remunerative practice, and at no time has his attention been withdrawn from his practice for official or other collateral duties. Mr. Dudley's thorough preliminary education, as well as his extended legal studies before entering the profession, fitted him preeminently for the devoted and successful professional life which he has led. His strong mental endowment, supported by his untiring industry and most careful and considerate attention to the business before him, have made his career a very pronounced success. He is a man of conscience, always controlled by his sense of the right,

C. A. Dudley



B. F. Kaufman

and this, coupled with his untiring industry, has not only given him an exalted place in his profession, but has clothed him with potent influences for good which he has always exercised in social and business life.

B. F. Kauffman was born in Pittsburg, and when very young removed with his parents to St. Louis, thence to Muscatine, and thence to Keosauqua, where the family settled and our subject acquired his education in the common and high schools. Later he attended the State University for about two years. He then entered the law department of that institution, from which he graduated with his class in 1866. At that time the law department was conducted in Des Moines, where he came with his parents in 1864. He commenced to practice his profession in 1868 in partnership with C. C. Nourse, the firm being Nourse & Kauffman. In his study of the law he evinced a studiousness and persistence which gave promise of his future development. The same characteristics were manifest in his practice, and gained him early recognition and a standing among the leaders of the bar. No member of the bar at Des Moines stood higher among the members of his profession than did B. F. Kauffman. His success was phenomenal and it was well earned.

S. S. Etheridge was born in New Hampshire, and he acquired his education at Newberry, Vermont, and Middletown, Connecticut. He came to Iowa in 1863 and settled in Des Moines. Directly thereafter he entered military service in the Forty-seventh Iowa Infantry, and continued during the war. He then entered the same law class with Mr. Kauffman and others, and graduated in 1866. He began the practice of the law, but was soon offered eligible official positions in connection with the United States courts, and has given attention thereto almost continuously down to the present time. His present position is that of trustee in bankruptcy. Mr. Etheridge is a man of decided ability, and has found the legal learn-

ing acquired by him in his course in the law department of great advantage to the public and a means of profit to himself. He is a most excellent man, having commendable standing among his acquaintances.

Robert Ryan was born in New York, where he obtained his preliminary common school and high school education. In 1857 he came with his family to Marion county, Iowa, where he attended the Central University at Pella; but before the completion of his course he enlisted in the Eighth Iowa Infantry and rendered faithful service until the close of the war. Upon his return from the war, he resumed his college course in the Central University and completed it. The following year he entered the law department of the State University, then conducted at Des Moines, and graduated therefrom with signal honors. In 1868 he opened a law office in partnership with his brother at Newton, Iowa, and conducted a successful practice of the law there for some twelve or fifteen years, doing a most satisfactory and remunerative business. He then removed to Lincoln, Nebraska, and there opened an office and resumed the practice with very decided success. He was for two terms one of the supreme court commissioners,—a court having the same jurisdiction as the supreme court of Nebraska, and which was created and organized for the purpose of bringing up the arrearages of business in that court. Judge Ryan occupied that position until the work was accomplished and the law creating the court of commissioners was repealed. He then returned to Des Moines and associated with himself two nephews, sons of his brother Judge David Ryan, and is now conducting a remunerative practice here.

Thomas S. Wright was born in Keosauqua, a son of George G. Wright, and acquired his education at his home county. He entered the military service directly after the breaking out of the War of the Rebellion, and ren-

dered faithful, gallant and efficient service therein till taken a prisoner of war, and he was held as such for a considerable time. Upon his return home he entered the law department of the State University, then (1865) conducted at Des Moines, and, pursuing the full course therein, graduated with high honors in the same class with B. F. Kauffman, S. S. Etheridge, Joseph Lyman, E. W. Ensign, William Sherman and others. Directly after his graduation he entered upon the practice of the law in Des Moines and rose very rapidly in the estimation of the bench and bar of the capital city as a sagacious, successful, able and competent practitioner. He continued the practice in Des Moines in partnership with his father, George G. Wright, T. F. Withrow, A. B. Cummins and others, in succession, until he removed to Chicago to become assistant solicitor for the Chicago, Rock Island & Pacific Railway Company, and there he continued to grow until he reached the very front rank of his profession.

By the constitution of 1857, the supreme court of the state was constituted to consist of three judges, one of whom should be chief justice, that one being the judge having at the time the shortest term of service remaining. The constitution, however, provided that the legislature might, in the future, when a necessity therefor arose, increase the number of judges of that court. Pursuant to that provision, the legislature meeting in January, 1864, increased by one the number of judges, making the court thenceforward consist of four judges. Judge C. C. Cole was appointed that judge in February, 1864. The legislature meeting in January, 1876, provided by enactment for the further increase of the court by adding one judge to the number already provided for. Judge J. H. Rothrock was appointed that judge in February, 1876. Again, in 1894, the legislature provided for a further increase of the number of judges by the addition of one judge thereto. Pursuant to this statute, Judge Horace E. Deemer was

appointed such judge in May, 1894. So that the supreme court from that time on has consisted of six judges. Without at all questioning the wisdom of these various statutes adding to the number of judges, it is nevertheless very manifest to every thoughtful person that such additions did not increase the practical working efficiency of the court in proportion to the numerical additions.

CHAPTER XLVII.

PRESENT SUPREME JUDGES; NOTICES, ETC.

Horace E. Deemer was born in Indiana, and removed with his parents when a mere lad to Cedar county, where he acquired his education in the public schools and in the high school at West Liberty. Thereafter he entered the law department of the State University at Iowa City, and pursued a full and thorough course of the law, graduating in 1879. Some little time thereafter he removed to Red Oak, and there opened an office and entered upon the practice of his profession. He merited and received from the first his full share of practice, and by continued and faithful application thereto, it grew into a full and remunerative practice, wherein he continued till January, 1877, at which time, having been elected thereto the fall before, he assumed the duties of judge of the district court of the Fifteenth judicial district. Judge Deemer has quite more than the average readiness of perception, a very advantageous element in any nisi prius court, and this characteristic, together with his thorough culture and extended knowledge of the law, made him, from the beginning of his service, a very popular and acceptable judge. His superior ability and capacity for deliberate and searching consideration, which were manifest to the bar continuously during his service, invited confidence and ap-

proval quite beyond the measure ordinarily extended to a new judge. His service upon the bench was therefore, during his first term, so satisfactory that he was nominated and reelected for a second term. This reelection constituted a most emphatic endorsement of his administration of the office during the first term, and thereby his reputation was heightened and broadened throughout the state. He was not permitted, however, to fill the full period of the second term, but was on May 8, 1894, appointed by Governor Jackson to the position of judge of the supreme court, which, of course, enforced a resignation of his district judgeship. He entered at once upon his duties as judge of the supreme court, and has continued by election and reelection thereon. Judge Deemer is a very industrious and active man, and brings to bear upon the investigation and determination of any question submitted to him, the fullest examination of the largest range of authorities within his reach. His opinions indicate a purpose to reach the very right of the matter in every case, and his command of language is such that he is enabled to express with precision the very point determined. His power of analysis of cases enables him fairly to determine the application or bearing of any case cited upon the question before him. He is a very pure, upright and impartial judge, and his influence in every avenue of life is for the best.

At the October term, 1894, a case was decided entitled In the Matter of the Guardianship of Geo. O. Benton, et al. The case was this: The minors, George O. and Grace Benton, were children of Manley J. Benton, deceased, a resident of Bremer county, Iowa. The mother of the children died before the father, and there were no immediate relatives in Bremer county or in Iowa. E. L. Smalley was appointed guardian for the children in Bremer county; the chief, if not the only, purpose of his appointment being to collect a policy of insurance upon the

life of the father of the children, aggregating two thousand dollars, twelve hundred of which was by the policy to go to Grace Benton, and eight hundred to George O. Benton. After the death of the father, the children were taken by the uncle, in whose family the grandfather lived, who were residents of Trempealeau county, state of Wisconsin. After they were taken there, the plaintiff in this petition, David M. Benton, was appointed guardian of their persons and also of their property. The local guardian was only guardian of their property. The children at the time of his appointment were with the uncle and grandfather in Wisconsin. The object of the petition was to have the money in the hands of the Iowa guardian transferred to the Wisconsin guardian, he having given bond sufficient, which accompanied his petition for the transfer, and the Iowa statute being otherwise complied with. The district court, manifestly in reliance upon the rule that a foreign guardian may not maintain a suit in a court outside of the jurisdiction of the one appointing him, had dismissed the petition filed by David M. Benton, the Wisconsin guardian. In the supreme court, the opinion was prepared by Deemer, Justice, deciding that a foreign guardian may maintain an action in Iowa to have funds in the hands of an auxiliary Iowa guardian of the property of his minors, transferred to such foreign guardian, where the infants are nonresidents, such guardian being both the guardian of the person and the property, and that where it is not shown that any good or valid reason exists for continuing the Iowa guardian, such transfer should be ordered.

Wm. Connor was born in Ireland, and came with his parents when eight years of age to Oneida county, New York, where he acquired a good common school and academic education, closing his academy course in 1863. He then enlisted in the Thirteenth New York cavalry, having been restrained in his desire for enlistment down to that

WM. CONNOR.

time. He continued in the army and saw much of the active service and took part in many engagements, and was taken prisoner early in 1864 and held in prison substantially till the close of the war. Upon his return home he completed his literary education, and began the study of the law with a prominent legal firm in Utica, and continued his studies there till he came to Des Moines in 1869. On coming to Des Moines, he was admitted to the bar and opened an office and entered upon the practice of his profession. In 1874 he was elected justice of the peace, a very important position in Des Moines at that time, the duties of which office he discharged with ability, integrity and impartiality. He was re-elected and served to the close of his second term. Later he was elected prosecuting attorney for the judicial district, which office he filled with fidelity and satisfaction. He was then elected judge of the circuit court for the same judicial district, and served with distinction until he voluntarily retired from the bench for the purpose of again entering the practice.

Upon retiring from the bench, he formed a partnership with Colonel Gatch and James B. Weaver, Jr., under the firm name of Gatch, Connor and Weaver, and continued with such firm until the death of Colonel Gatch, from which time the firm was Connor and Weaver down to the death of Judge Connor. Judge Connor was a man of very vigorous, penetrating mind, which moved with deliberate consideration. As a lawyer he gave to his cases the most exhaustive consideration, taking as much time as he deemed necessary for a full comprehension of the case in all its bearings, and these characteristics also marked his administration of the law from the bench. His analysis of the cases cited to him on the bench or brought to his attention when at the bar, was close, considerate, and such as brought him fully to comprehend the bearing and influence any case had upon the one be-

fore him under consideration, either as judge or lawyer. He was not an attractive speaker, and yet he always held, with very unusual closeness, the court to his line of argumentation and its legitimate conclusion. Judge Connor was conscientious, exemplary and influential in all his conduct in official position, at the bar and in social life.

William H. Baily was born in Clayton county, Iowa, where he obtained a common and high school education. Later he attended the University of Wisconsin, from which he graduated in 1873. He also studied law in his home county, and later entered the law department of the Iowa State University, from which he graduated in 1875. At first he opened an office for the practice of the law at Independence, but remained there only about a year, and then removed to Spirit Lake, where he opened an office and continued the practice for twelve years, during which time he had a remunerative and excellent business, and grew very much as a lawyer both in fact and in the estimation of the bench, the bar, and the people of his district. In 1888 Mr. Baily removed to Des Moines, and he has continued the practice of the law from that time down to date, during which time he has done an excellent and lucrative practice, being engaged much of his time in important litigation, both corporate and other. As a lawyer Mr. Baily gives to his cases the most exhaustive, thorough and careful investigation, and is never satisfied with his preparation until he has extended his investigation to the fullest. His presentation of cases to the court is always deliberate and exhaustive, and while not a specially attractive speaker, he does, by his knowledge of the question presented, hold closely the attention of the court to his arguments. Mr. Baily is a conscientious, exemplary and able lawyer.

Albert P. Chamberlin was born in Ohio, but came, with his father's family when a mere boy to Story county, Iowa, where he acquired his common and high school edu-

Wm. A. Bailey

cation and spent four and one half years in the State Agricultural College at Ames, graduating therefrom in 1875. He then entered the Iowa College of law at Des Moines, and graduated therefrom in 1876. Directly after graduation he opened an office in Des Moines and began the practice of the law, which he has continued there ever since, a part of the time in partnership and the balance by himself. Mr. Chamberlin has had a remunerative practice and has given to it continuous and faithful attention. He has given special attention to the securing of the right of way for railways, and also for interurban railways, and he enjoys a reputation for skillfulness and success in that line of practice, unsurpassed. He is always industrious and faithful, and gives his undivided and persistent attention to his business.

James H. McConlogue was born in Philadelphia, but removed with his parents, when a mere child, to Beloit, Wisconsin, and a few years later to the state of Illinois, and thence, in 1868, to Cerro Gordo county, Iowa, obtaining his education in each of these places in part, in the local district schools largely in the winter, while working in the summer on the farm and on railroads. He also had the rare advantage of a part of a course in Notre Dame University, Indiana, where he completed his education. He afterwards entered the law department of the Iowa State University and graduated therefrom with honors in the class of 1882. The next year he opened a law office at Mason City and began the practice. His practice was remunerative from the first. He has practiced law alone and with different partners. One of the strong firms of his county and district for several years was the firm of Glass and McConlogue. Mr. McConlogue has a commanding personnel, is very energetic and possibly naturally aggressive, which characteristics, coupled with his elementary education and his thorough law reading, enabled him to reach the front rank of the profession in his

county and district, and to attain a prominence in all social and public affairs interesting in his locality. He is very industrious and careful in the preparation of his cases, and is sought for in important cases and has added to his reputation in the defense of some important criminal cases. He is prominent also in the State and American Bar Associations.

CHAPTER XLVIII.

JUDGE LADD'S ACCESSION TO THE SUPREME BENCH; ALSO NOTICES, ETC.

At the fall election, November 3rd, 1896, Hon. Scott M. Ladd was elected Judge of the supreme court and took his seat on the bench at the beginning of the January term, 1897.

Scott M. Ladd was born in Wisconsin. His parents were of New England stock and were farmers. The son remained on the farm during his minority, attending the common schools. After acquiring a common school education he attended Sharon Academy in his home county, and after completing his course therein attended Beloit College for a part of a course, and finished his college course at Carthage College, Illinois, from which he graduated in 1879. After graduating from college he taught school for a year or two in Hillsdale Academy in Illinois, and began the study of law, which he prosecuted contemporaneously with his teaching. He then entered the law department of the Iowa State University from which he graduated in 1881 and was admitted to the bar. In the fall of that year he opened a law office at Sheldon, O'Brien county, Iowa, and entered upon the practice, which he conducted successfully from the first. He was soon known as a hard-working, industrious lawyer, and

the practice brought to him was disposed of in such satisfactory way that his business constantly increased and became more and more remunerative. In the fall of 1886, after having practiced only five years, he was nominated and elected district judge for his district and commenced his duties as such at the beginning of 1887. His administration of the duties of district judge was with ability, dignity, great industry, and recognized impartiality. He became very popular as such judge, and was re-elected at the expiration of his first term. Perhaps no one ever in that district discharged the duties of that office with more industry and satisfaction than did Judge Ladd. He continued to discharge such duties till January, 1897, when he took his place on the supreme bench, to which he had been elected the fall before. As a judge of the supreme court, Judge Ladd has shown the same persistent, faithful and considerate industry and attention which characterized him alike as an attorney and as district judge. His opinions evince great care and consideration in their preparation, as well as careful study of the cases before him, and then an able, logical and sequential treatment of the questions involved, till he arrives at his satisfactory conclusion. The high order of his ability, as well as the breadth of his literary culture and thorough knowledge of the law, have been abundantly verified and vindicated in his career, and that they were appreciated by those who knew him is also evidenced by the fact that they placed him rapidly to the front, where his learning, ability and manliness were appreciated. Judge Ladd does not take sides in cases presented to him until a thorough investigation of them and a judicial solution of the questions presented therein, and then he sets forth the case in its natural and judicial order, announcing in a manifestly fair and impartial way his conclusions. His retiring and unostentatious manner adds force to his opinions and gives to them a tone and trend of impartiality. He never indulges in a heated or one-

sided discussion of any question presented. He is well fitted for his high judicial position, and his excellent services therein are well appreciated by the bench and bar and the people.

At the April term, 1897, a case involving the construction of warranties in a deed came before the court. The case was Duroe v. Stephens, 101 Iowa, 358. The opinion therein was prepared by Ladd, Justice, and decided that where a deed, after reciting that it was subject to two named mortgages, covenanted in print that the premises were free from all incumbrances, which was followed by the written words, "except as above"; and then came a printed special warranty to defend against all persons, followed by the written words, "claiming in, through or by us," such special warranty did not limit the general covenant against incumbrances, and the grantee had a right of action upon the existence of a mortgage other than the two named in the general incumbrance clause. Also, that a covenantee in a covenant against incumbrances, who without objection files a cross petition asking appropriate relief in an action to foreclose a mortgage, the existence of which constitutes a breach of the covenant, is entitled to a decree permitting him to pay the mortgage and costs, and adjudging the covenantor liable therefor, or providing that, upon payment of the mortgage and costs by the covenantee within a certain time, he have a judgment against the covenantor for the amount so paid. Also, that a covenant against incumbrances is broken, eo instante, where there is a mortgage on the property in existence at the time the deed is executed, and that damages for breach of covenant against incumbrances, sustained since the commencement of the action, may be recovered, where the action is in chancery.

CHAPTER XLIX.

ACCESSION OF JUDGE WATERMAN; NOTICES OF ATTORNEYS, ETC.

Howard W. Byers was born in Wisconsin and acquired his education there in the public schools, both common and high schools. He came to Iowa in 1873, locating first on a farm in Hancock county. Subsequently he prosecuted the study of the law under fairly advantageous circumstances and was admitted to the bar in 1888. He then located in Harlan and opened an office and engaged in the practice of the law there, where he has continued such practice with unbroken attention save as called upon for the discharge of public duties pursuant to the election thereto by his fellow citizens. His practice from the time he entered thereon has been fully remunerative and an enlargement with his growing experience has been fully satisfactory. Mr. Byers is a very industrious active man; a thorough student of the law and of the cases brought to him; and ever persistent in their successful prosecution. But few members of the bar in the state rank higher than Mr. Byers in these respects. In 1893 he was elected to the house of representatives in the Twenty-fifth general assembly, and during that session manifested his special capacity as a legislator and obtained prominence as such. He was re-elected to the following term in 1895 and was elected speaker of the house in the Twenty-sixth general assembly. He discharged the duties of Speaker with great acceptability and evinced an ability equal to the demands of the position. He was prompt, impartial and sagacious

in the disposition of parliamentary questions presented to him.

In 1899 he was again elected representative in the house of the Twenty-eighth general assembly, wherein his efficiency was quite increased by reason of his extended experiences in legislation. In 1906 he was nominated and elected to the office of attorney general of the state and he entered upon the discharge of his duties in January, 1907, and hitherto has manifested both his capacity for and his adaptation to that exalted position. Mr. Byers is an able, conscientious, faithful man and justly holds the high esteem of the people of the state.

Nathaniel T. Guernsey was born in Davenport, Iowa, and there acquired his common school and academic education. He then entered Yale College, and after taking a full course therein graduated in 1881. He also, later in the same year, entered the law department of Yale College and graduated therefrom in 1883. The same year he removed to Des Moines and entered upon the practice of the law, beginning as a member of the firm, Nourse, Kauffman & Guernsey, and upon the dissolution of that firm in 1886, the firm of Kauffman & Guernsey was formed and continued the business, ranking among the very strongest and leading law firms at the Capital City, until the death of Mr. Kauffman in 1893. Since that time Mr. Guernsey has conducted business by himself, employing experienced attorneys as clerks. He has done a lucrative practice, being engaged in many of the most important cases and largely connected with corporation law through his numerous corporate clients. Mr. Guernsey is a man of vigorous physical development, strong mental powers, ever industrious and active. He is in the front rank of the legal profession in Des Moines and in the State.

James E. Blythe is a native of New Jersey, where he acquired his education in the public schools and supplemented such education by following the profession of

H. N. BROCKWAY.

teaching for several years thereafter, and then took a regular course in Hanover College, Indiana. He then came to Mason City and there read law until 1878 when he was admitted to the bar. Mr. Blythe is a man of thorough culture, extended knowledge of the law, and possessing an influence over men which brought to him from the beginning, a remunerative and growing practice which he has pursued with success and profit down to date. He was a member of the Twenty-second general assembly of Iowa wherein he served with decided efficiency and with such acceptability to his constituents as assured to him a re-election to the Twenty-third general assembly in which he was even more efficient than in the previous one. A man of marked ability and of decided success in life.

H. N. Brockway is a native of Michigan, but he acquired his education largely in the public schools of Indiana and in a course in the South Bend Academy. He then came to Iowa where he studied law in Webster City and in 1860 was admitted to the bar and began the practice in Hancock county where he has continued to reside and to practice law, engaging also at times in collateral business. After continuing a very limited practice for about two years, he enlisted in the Thirty-second Iowa Infantry and served therein for three years as private, sergeant, orderly sergeant and captain. His army service was faithful and honorable. He then returned to Hancock county and after serving a term as county treasurer, he resumed the practice of his profession and has continuously until within the last few years, pursued an active and successful practice uniting therewith the business of real estate and other practically allied business. Mr. Brockway has always had recognition as a faithful and competent lawyer and a man of thorough honesty and abiding integrity.

With the close of the year 1897 came the close of the judicial term of Chief Justice Kinne. At the election in 1897, Charles M. Waterman of Scott county and of the

Davenport bar, was elected Judge of the supreme court as successor to Chief Justice Kinne.

Charles M. Waterman was born in Frankfort, Kentucky, and acquired his education there in the public schools and in an academic course in a private academy. This education was supplemented by experience more or less extended as a teacher in the schools. He studied law and was admitted to the bar in 1873 and located at Davenport, Iowa, where he opened an office and engaged in an active and successful practice. As a young lawyer, he acquired the reputation for studiousness and as a thoroughly well read lawyer which brought to him a fully remunerative practice. In 1877 he was elected a representative in the house of the Seventeenth general assembly. At that time Davenport was perhaps the leading city in the state and commanded the attention as such of all the legislators and demanded of its immediate legislative representative a close looking after its local interests. Mr. Waterman, though at the time a young man, obtained recognition as a legislator and gave successful attention to the interests of the state in general and the interests of his own city and district. He served one term as city attorney, the duties of which position were at that time, quite laborious and important. These public duties added to his private practice gave him a standing and recognition not otherwise readily obtainable. In 1887 upon the death of John H. Rogers, the judge of the district court, he was, by the Governor, appointed judge of the district court of the Seventh judicial district as successor of Judge Rogers, and in the fall of that year, was by the people, elected to the same position to which the Governor had appointed him. His service upon the bench was able, active, and acceptable so that upon the expiration of the term to which he had been appointed and elected, he was re-elected for a full term in 1890 and again in 1894. He continued service on the district bench for approximately

three terms. In November, 1897, he was elected judge of the supreme court, and took his seat on the bench thereof at the beginning of 1898. He continued his service on the bench of the supreme court and the discharge of his duties as judge till June, 1902, when he resigned in order to return to and resume the practice of his profession in his home city. Judge Waterman brought to the bench of the supreme court the full average of the ability of his associates and his services thereon were characterized by the same full measure of industry, careful and considerate examination of his cases as had characterized his service on the district bench. His opinions evince his fullness of knowledge of the law; and his careful and impartial consideration of the questions involved as well as a logical and sequential discussion thereof leading to the conclusion reached. His public services as well as his exemplary life, give sanction to the recognized integrity of his character.

At the January term, 1898, the case of A. E. and F. H. Giddings v. The Iowa Savings Bank of Ruthven, Appellant, 104 Ia. 676, came before the court for determination. The case was this: A. E. and F. H. Giddings were husband and wife; the husband, F. H. Giddings, had been acting as cashier of the defendant, the Iowa Savings Bank of Ruthven, and as such had made loans to some friends, which had turned out to be non-collectible and the officers of the bank claimed that it made the cashier an embezzler to the amount of such loans and they had been to A. E. Giddings, the wife, and threatened to prosecute the husband unless the amount was returned to the bank; and under such threats procured her signature to a note and also to a mortgage of her homestead. This action was brought to secure the surrender of that note and mortgage. This statement will enable the reader to appreciate the further statements as they appear in the decision. The opinion was prepared by Waterman, Justice, and decides that a threat to imprison one for an offense of which he is, in

fact, innocent, is as to him, a threat of unlawful imprisonment and will constitute duress, although the one making it, had reasonable ground to believe that such person was guilty as charged. Also, that a husband intending to join with his wife in the execution of a mortgage on her separate property, who signs the instrument freely, while her signature is obtained by compulsion exerted by others, may properly join with her in the claim, when she sets up the invalidity of the instrument as against her, since it is not the instrument he intended to execute. Also, that a mortgage given upon a homestead and signed by the wife is executed under duress, where her fear or affections are worked upon through threats made against her husband and she is induced thereby against her will to convey her property to secure his debt, although the liability was valid and the threat was of a lawful prosecution of a crime which he had in fact committed. Also, that in an action by a husband and wife to secure possession of a promissory note and the mortgage securing it, on the ground that the wife executed the instrument upon her homestead under duress to secure the debt of her husband by reason of the threats of a creditor that he would otherwise institute a prosecution against the husband for an alleged crime, the jury should take into consideration whether the crime had in fact been committed, as charged, and whether the debt was a valid, existing obligation against the husband, and it is error to charge that such matters are immaterial, for, among other things, they bear on the question whether there was coercion. Also, that where defendant demanded of a husband a mortgage on his wife's homestead, which was in his wife's name, claiming that he was a defaulter and threatening criminal prosecution, unless he gave the mortgage, evidence of the conversation between husband and wife, when he told her of such interview, was admissible, in an action by them for possession of the mortgage, on the ground of duress, and admission of such evidence

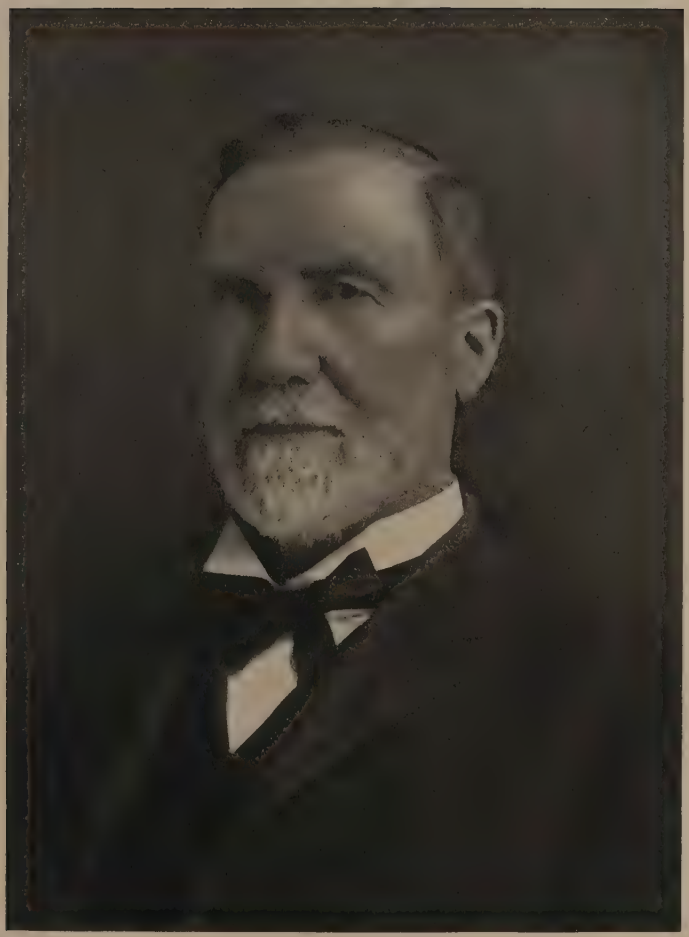
did not contravene Code of 1873, Section 3642, forbidding husband and wife divulging confidential communications made by one to the other.

Henry Rickel was born in Ohio, but removed therefrom when a very small boy with his parents, first to Springfield, Illinois, then a few years later to Galena, and shortly thereafter to Clinton County, Iowa, acquiring his education in the common schools in the several places and finally concluding his literary student course in West Union. He gave his attention to revenue paying business down to 1860, when he commenced the study of the law at West Union with Hon. L. L. Ainsworth and diligently pursued it there until the fall of 1862 when he aided in the recruiting of Company "C" of the Sixth Regiment of Iowa Cavalry in which company he entered the military service as second lieutenant of that company, his legal preceptor being its captain. He continued in the service with characteristic fidelity and energy until the summer of 1864 when by reason of continued ill health he was compelled to resign. He returned home and after continuing his legal studies for a short time was admitted to the bar during the year 1864 and entered upon the practice of the law at West Union which he conducted alone for two or three years and then formed a partnership with William McClintock and prosecuted the business under that arrangement for several years, always doing a remunerative and attractive business. In 1878 he removed to Cedar Rapids, and there continued business with partners under the firm name of Rickel, West & Eastman. This firm did a very large and lucrative business for several years, giving their attention to the general practice in which their success was quite equal to and above the average. The firm had a prominent business and recognition in their county and district as well as in other counties of the state. Later Mr. Rickel turned his attention particularly to railroad and other corporation business in which he met with most de-

cided success. Mr. Rickel as a lawyer was characterized by great energy, industry and persistence. His general culture and his extended knowledge of the law enabled him to win success wherever it was attainable and in the line of his later specialties he acquired a most enviable reputation. He was a man of very decided ability; thoroughly conscientious; of undoubted integrity, and always ready to aid in matters promotive of the best interests of the people of his locality.

David W. Clements was born in Ireland of Scotch parents and removed with the family when a mere child to the United States, stopping first in New Jersey and shortly thereafter removing to Fayette county, Iowa, and settling on a farm there. He acquired his education in the common schools of his home county and supplemented the same by teaching and using the leisure from his immediate duties in the prosecution of higher literary learning. He studied law in the law department of the Iowa State University from which he was graduated in 1874 and was admitted to the bar the same year. He then located at West Union and opened a law office there and entered upon the practice, in connection with Henry Rickel the subject of the last foregoing sketch, under the firm name of Rickel & Clements. This firm continued in an excellent and extensive practice of the law for fourteen years, and acquired a standing as faithful and successful lawyers, not surpassed by any firm in their county or district. The removal by Mr. Rickel to Cedar Rapids caused a dissolution of the firm and its business was thereafter conducted by Mr. Clements with undiminished success. Mr. Clements not only stood high as a lawyer, but as a conscientious, upright and public spirited citizen, was unsurpassed.

Lindley S. Butler is a native of Ohio, but acquired his education in the common schools of Iowa and his higher education at the Springdale Seminary and then at the Iowa State University. After completing his literary



D. W. Clements

course he entered the law department of the State University and after taking a full course therein graduated therefrom in June, 1869. That fall he located at Northwood and entered upon the practice of his profession, wherein he won an early recognition and success. At the beginning, his practice was remunerative, and it grew with great rapidity and permanence. In 1872 he was elected district attorney of the Twelfth judicial district comprising eight counties and his services were so able and acceptable that he was elected to a second term which he also served with ability, fidelity and success. In 1890 he removed to West Superior, Wisconsin, and after a short time returned to Iowa, locating at this time in Forest City, where he resumed the practice and continued it with characteristic ability and success. Mr. Butler is a man of most excellent character and of sturdy integrity and very courageous in the prosecution of the right.

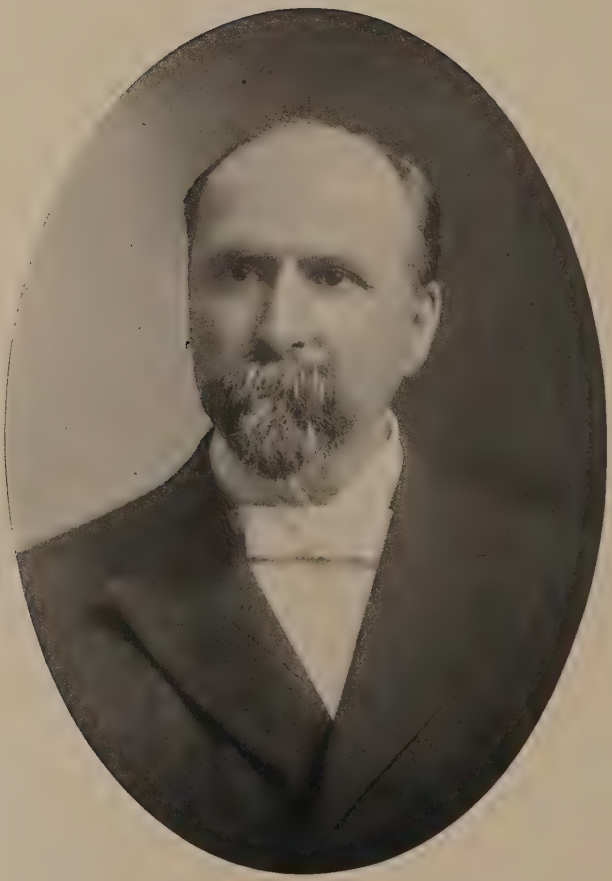
James L. Carney was born in Massachusetts and removed therefrom with his parents when a mere boy to Iowa, where he acquired his education in the common schools and high schools and then entered Iowa College at Grinnell wherefrom he graduated in 1871. Later, he entered the law department of the Iowa State University and graduated therefrom in 1873 and was at once admitted to the bar. He entered upon the practice of his profession at Marshalltown and from the very beginning has enjoyed at first a remunerative, and later a lucrative practice, a part of the time by himself, and another part in partnership with others. Whether alone or associated with others, he is ever an industrious, aggressive practitioner of the law. His literary culture was very thorough and extended and his knowledge of the law was ever manifest. He has served two or more terms as solicitor for his home city and as County Attorney for his home county. He was elected a member of the State Senate in 1895 and served a full term therein. His thorough culture, wonderful energy

and untiring zeal gave him a prominence in the Senate equalled by few, and his industry made him quite more than the average in efficiency in the enactment of legislation for the best interests of the people of the state and to guard and promote the interests of his locality. Mr. Carney is a man of strong ability; of recognized and abiding integrity and always active in the promoting of the best interests of his city, county and state.

Edmund C. Walsh is a native of Iowa and one of the leading attorneys of the Clinton county bar. He was born in Davenport in 1859. He acquired his education in the common and high school of Clinton. Later he attended the State University of Iowa, graduating therefrom in 1881. He then returned to his home in Clinton and entered the law office of Hon. A. R. Cotton. There he read law, and was early in life admitted to practice his profession. Although his practice has been general in character, he has drifted largely into the lines of federal and corporation law.

Edmund C. is senior member of the firm of Walsh Bros., composed of himself and five brothers: Mark A., James W., Charles H., Alfred E. and Eugene J. Walsh.

Mark A. Walsh was born in Clinton county, Iowa, in 1867. He is a graduate of the law department of the State University of Iowa, class of 1889, and in the same year he was admitted to practice before the United States Court of Iowa. Later he was admitted to the Illinois courts, and his time is now devoted almost entirely to the practice of corporation law. Mr. Walsh is a man of most excellent character, which he evinces in the conduct of the business of his profession, wherein he is prominent.



John C. Sherman

CHAPTER L.

ACCESSION OF JUDGE SHERWIN TO THE SUPREME BENCH; NOTICES, ETC.

John C. Sherwin is a native of Ohio, but removed with his parents during his youth to Wisconsin where he acquired an excellent common school education and also a high school course at La Crosse. He then attended Beloit College for about one-half the college course, and then attended Ripon College for the remainder of the course. His full and thorough education was acquired under such circumstances as to make the same most profitable to him. For where a student is forced to supply the financial means for acquiring an education, such education and its opportunities are more fully and better appreciated. After concluding his preparatory and literary courses, he entered upon the study of the law with competent preceptors in a law office, and continued such study for approximately two years. He then entered the law department of the Wisconsin State University from which he graduated in 1875 and was admitted to the bar.

He opened an office and entered upon the practice at Chippewa Falls, and after continuing there for a year or more, he removed to and settled in Mason City where he opened a law office and commenced the practice of the law. He continued the practice there until called by his fellow citizens for the discharge of public duties in the same line. Mr. Sherwin, as a practitioner of the law, has always been a most diligent student and hard worker, giving to his cases all the time and study requisite to a complete knowledge of them and to acquiring the means of presenting them to the court in the most advantageous way. This uniform, close and exhaustive attention to and investigation of his cases gained for him a reputation,

bringing to him much business, and aiding in his growth and development. His experience and success in these methods lend added verity to the expression that hard work is the only reliable genius; and this is doubtless true in every avenue of life's employment. In 1885 Mr. Sherwin was elected district attorney of his judicial district and served faithfully and successfully in that office for the one full term. The next year after concluding his service in that office and in 1888, Mr. Sherwin was appointed judge of the district court to fill a vacancy on that bench and at once entered upon the duties of his office. After serving the balance of the term to which he was appointed and elected, his services were so thoroughly appreciated and acceptable as that he was twice re-elected to the same position. His services at the bar, and the thoroughness of his preparation for those duties tended much to fit, prepare and qualify him for the duties of the bench and it is not strange, in view of his history at the bar that his services on the bench were so fully acceptable. He continued on the district bench and resigned that position in order to accept the position he now holds as judge of the supreme court, having entered upon the duties of that office at the beginning of 1900. He has served one full term and was re-elected in 1906 to another full term. As judge of the supreme court, Mr. Sherwin has shown the same characteristics of close and persistent study and investigation of cases which he manifested at the bar and also on the district bench. His opinions show most manifestly a disposition to give due care and considerate treatment to the questions presented, and his line of treatment and reasoning leads him to a just and legal conclusion. His opinions, like his personal bearing are practical and free from ostentation, and yet pursue a natural and reasonable course to the goal he desires to reach. He is a conscientious, upright, faithful and impartial judge.

At the January term, 1900, the case of Zook v. Thomp-

son was decided by the supreme court. The opinion therein was written by Sherwin, Justice, and states the facts of the case as follows: On the tenth day of August, 1895, the plaintiff sold the defendant real estate for the agreed price of one thousand dollars. One hundred dollars was paid in cash, and the plaintiff agreed in writing to accept as full payment therefor, upon delivery of a warranty deed and abstract, the further payment of four hundred dollars cash and a note of five hundred dollars, bearing seven per cent per annum from the fifteenth day of August, 1895, and due in one year. The defendant took possession of the property, and thereafter difficulty arose between plaintiff and defendant, which resulted in the defendant refusing to pay the four hundred dollars cash and to execute the five hundred dollar note. The plaintiff thereupon brought suit to collect the nine hundred dollars, balance of unpaid purchase money, and asked therein that a vendor's lien be given him for the same. In answer to that suit the defendant alleged that the plaintiff had failed to furnish him an abstract showing a good title to the land, as agreed, and had failed to remove certain clouds upon the title thereto, and that he was ready to perform his contract whenever the plaintiff would perform on his part. A trial was had, and the court decreed that the plaintiff was entitled to judgment for four hundred dollars, and that the defendant execute and deliver to the plaintiff his note for five hundred dollars in accordance with the terms of sale. This judgment was executed. The note then given to plaintiff is the one sued on herein and judgment thereon is asked and that a vendor's lien be enforced. The claim for vendor's lien is resisted on the ground that it was waived by the plaintiff at the time of sale and since, and that there was an adjudication of the plaintiff's right thereto in the former suit. In the former action no issue was tendered as to the plaintiff's right to a vendor's lien. The court decided that the decree in the former action did

not constitute an adjudication of plaintiff's right to the lien, since in the former action the court had no occasion to pass on the lien. That the fact that a vendor of land entered into a written contract, and accepted a note for the purchase price, was not sufficient to constitute a waiver of his right to a lien for the same, in the absence of clear proof that such was the express agreement of the vendor. The judgment of the court below was affirmed. Read & Read were attorneys for the appellant and Edward A. Davis attorney for the appellee.

William L. Read was born in Ohio and when a small boy removed with his parents to Scott county, Iowa. Later the family removed to Polk county and settled on a farm near Altoona. Mr. Read acquired his education in the common schools in winters and worked on the farm in summers and later attended the East high school in Des Moines and the high school in Davenport. He supplemented this by teaching school for a term and then attended the academic department of the State University at Iowa City. He then entered the law department of the State University and graduated therefrom in June, 1875. After teaching school further, he located at Des Moines and opened an office there and entered upon the practice of his profession. For more than thirty years he has continued the strenuous practice of the law at Des Moines, a part of the time alone but the greater part of it in partnership with his brother John, under the firm name of Read & Read. They were engaged in the general practice of the law and not limited at all by the nature of the case nor by the locality; their practice extended in other counties then the capital county. The firm has been engaged in some of the most important cases pending in the district court, the supreme court, the federal circuit court and in the circuit court of Appeals. They have done a lucrative business and attained a recognition as among the ablest and most successful lawyers in the state.

John M. Read was, like his brother, born in Ohio and came with his parents to Iowa, where he obtained his education in the common schools and the high school, the Des Moines College, and also in the State University. Upon completing his education, literary and legal, he entered into partnership with his brother, William L., in Des Moines and has continued with him down to date. The two brothers not only rank high in point of ability, studiousness and success as lawyers, but they also are recognized as conscientious citizens of sterling integrity and alike take active part in matters interesting to and tending to the uplift of the people. They are pure lawyers in a double sense for that they give their undivided and exclusive attention to the law and its practice and along the most exemplary lines.

George F. Henry was born in Chicago and there acquired his primary and high school education. He also acquired higher education in Griswold College, Davenport. His education in the schools and college was thorough and was acquired amid opportunities for learning the current, practical business affairs which were all about him. His legal education occupied substantially three years. A portion of this time was in the office of Putnam & Rogers of Davenport, and the balance in attending a full course in the Law Department of the State University at Iowa City. In 1877 he removed to Des Moines and forming a partnership with James G. Berryhill they opened an office and practiced under the firm name of Berryhill & Henry. From the date of the opening of their office their business has been remunerative and it soon grew into a large and lucrative practice, and the firm continued unbroken for nearly thirty years, at which time Mr. Berryhill retired. It is alike due to Mr. Berryhill as to Mr. Henry to state that the burden of the law practice has been borne by Mr. Henry, who has by his great industry, and devoted, persistent attention to business, brought the

firm to an enviable place in the front rank of the profession at the Capital City of Iowa.

Horatio F. Dale is a native of England where he spent his life up to mature manhood and acquired a most thorough course of education, including what is recognized as the higher culture. He came to this country in about 1870 and located first at Dubuque where he studied law and remained in its study and introductory practice until 1874, when he removed to Corning, and there continued the practice of the law. His practice grew with his experience and acquaintance and came to be fairly remunerative, and was extended into all the counties of his district and even outside. He continued the practice there until 1892 when he removed to Des Moines and opened an office there and engaged in the practice. He has continued to practice law in Des Moines down to date. Mr. Dale is what may properly be classed as a very close, discriminating and careful lawyer. He not only investigates a case upon his client's side but examines it thoroughly and completely and assures himself of the right before proceeding. He was one of the Commissioners who prepared the Code of 1897, and his services in that connection were laborious and very highly advantageous. For the last few years he has been in partnership with W. G. Harvison under the firm name of Dale & Harvison, and their business has been such as to classify the firm among the leading practitioners of the Capital City. Mr. Dale is a man of most decided natural ability, very thorough in his literary education and indeed, a very profound lawyer, a man of excellent character and unquestioned integrity and fidelity.

At the close of the year 1900 the term both of election and re-election of Judge Charles E. Granger expired, and he retired from further service on the bench of the supreme court. Emlin McClain was in November, 1900, nominated and at the fall election was elected, to succeed Judge Granger, and he took his seat accordingly.

Emlin McClain

CHAPTER LI.

ACCESSION OF JUDGE M'CLAIN; NOTICES OF ATTORNEYS, ETC.

Emlin McClain was born in Ohio, but came with his father's family to Tipton, Iowa, when a mere child. He acquired his education entirely in Iowa, including the public schools at his home town and at the Wilton Academy. He then entered the Iowa State University and was graduated in the philosophical and then in the classical department. Later he entered the law department from which he graduated in 1873. After his graduation he moved to Des Moines and further pursued his legal studies while acting as clerk in the office of Wright, Gatch & Wright. He then became private secretary for United States Senator Wright, and in connection therewith was Clerk of the senate committee on claims. He held this position during the whole session of the Forty-fourth congress embracing 1875 and 1876. At the close of his duties as such in Washington, he returned in 1877 to Des Moines and there began the practice of law. Mr. McClain is one of the most persistently studious of men, and he could not be otherwise than engaged in the study of the law, whether applicable to a particular case or not. He continued a fairly remunerative practice at Des Moines until 1881, during which time he prepared and published "McClain's Annotated Statutes of Iowa." He was, in 1881, appointed professor in the law department of Iowa State University and moved to Iowa City. He continued as professor in the law department until 1890 when he was made the dean of that department under the title of Chancellor, in which position he continued, evincing special capacities therefor and in which he gained great success and a most enviable

reputation, until the close of the school year 1899. During his service as professor of law Mr. McClain prepared "Outlines of Criminal Law and Procedure," "Synopsis of Elementary Law, and Law of Personal Property," a digest of Iowa Reports in two volumes and later a supplement thereto, "McClain's Annotated Statutes of Iowa" in two volumes, and later a supplement thereto; a work on criminal law in two volumes, and a collection of cases on constitutional law. In addition to these he contributed to periodicals much legal literature and has also published a very valuable and what ought to become a popular work, entitled "Constitutional Law in the United States." Judge McClain also was one of the commissioners to prepare the Code of 1897 and rendered valuable and extended services in connection therewith; and he was selected to and did prepare the annotations of the Code of 1897. His thorough conversance with the law and with legal literature, in view of the foregoing statements, can hardly be questioned. As a judge of the supreme court, he has evinced the same studiousness and persistent attention to the work before him as has evidently characterized his previous life. His close application to his work, his thorough literary culture and extended conversance with the law, together with his recognized ability, has enabled him to discharge his duties as judge with satisfaction.

At the January term, 1901, there was submitted to the Court the case of Augusta Vierling v. George J. Binder, 113 Iowa, 337, an action for a breach of promise to marry. The opinion in the case was prepared by McClain, Justice, and was filed in April, 1901, and states the facts illustrating the case at the beginning of the opinion as follows: "The parties became acquainted with each other by reason of defendant's advertisement through a matrimonial agency. After considerable correspondence, plaintiff agreed to go from Toledo, Ohio, where she resided, to Burlington, Iowa, the place of defendant's residence, in

order that defendant might become better acquainted with her, and in the mutual hope expressed on both sides that marriage would result if defendant should find himself satisfied to take the plaintiff as his wife." It is alleged that the contract sued upon was made during this visit. In the opinion the court decides that where the defendant in an action for breach of marriage promise only pleads the diseased condition of plaintiff as tending to show that the contract was not made, it is not error to refuse to require plaintiff to submit to a physical examination, since the issue only relates to her condition at the time of the making of the alleged contract. Also, that evidence of the specific property owned by the plaintiff is admissible in an action for breach of marriage promise. Also, that when the trial of an action for breach of marriage contract occurred shortly after the contract is alleged to have been made, evidence of property owned by defendant at the time of trial is admissible. Also, that when the defendant in an action for breach of marriage contract, pleads the physical condition of the plaintiff, as tending to show that the alleged contract was not made, and not to excuse performance, it cannot be considered for the latter purpose. Also, that matter in mitigation of damages, should be specially pleaded, and cannot be proven under a general denial. And the judgment of the court below was affirmed.

William H. McHenry, Sr., was born in Ohio and there acquired a common school education, and more than a decade after attaining his majority he removed to Des Moines, Iowa, having spent some years in Indiana. In his school education he manifested a preference for mathematics and became quite proficient therein. At the time of his coming to Iowa much attention was given to entering lands. Mr. McHenry gave his attention to surveying and was familiar with land surveys, under the federal government. His business together with the controversies growing out of jumping of "claims" stimulated him to

becoming a lawgiver, and he, with the aid of one or two others, prepared a code of laws to prevent the jumping of claims and often aided in its administration. He was elected sheriff in 1853 and made the first arrest in Polk county for the crime of murder. In 1854 he was elected county drainage commissioner, and served very faithfully, efficiently and satisfactorily therein as in the other offices he had held.

He was later elected a member of the city council and afterwards mayor of the city. In both of these positions he manifested his ability, fidelity and impartiality. In 1857, having theretofore been admitted to the bar, he turned his attention to the practice of that profession, and at once commanded a remunerative business therein. He formed a partnership with a namesake, M. D. McHenry, and that firm did for many years, a large and successful business. In 1878 he was nominated and elected judge of the district court for the fifth judicial district, embracing six counties, including the capital county of the state. He administered the duties of that office with great practical judgment and no judge has ever discharged his duties with more general satisfaction. This satisfaction is confirmed by the fact that he was re-elected for a second term, which he served with equal ability and fidelity. Judge McHenry was a man of very strong natural ability and was distinguished for the vigor of his language, its frankness and directness, as well as its force. A man of unquestioned integrity and who always enjoyed the confidence and most considerate regard of all who knew him.

Martin D. McHenry, a native of Kentucky, where he lived and acquired his education and was honored at the bar and was elevated to the bench and served his home people and state successfully and approvingly past middle life. In 1855 he removed to Des Moines with his family and entered into the practice of the law here in partnership with the subject of the preceding sketch, and con-

ducted a large and successful practice for many years. He was a man of very high order of ability, of most liberal education and a profound lawyer—a Christian man, always striving to do that which was best for the uplifting of those about him and the promotion of public good.

Jefferson S. Polk was born in Georgetown, Scott county, Kentucky, and there acquired a liberal education and studied law and was admitted to the bar there. He came to Des Moines in 1856 and opened an office and entered upon the practice of his profession. He commanded his fair share of the practice and later entered a partnership with P. M. Casady and M. M. Crocker under the firm name of Casady, Crocker & Polk, which firm did the very leading business of the county and district. It continued only a year or two by reason of Gen. Crocker's entering the military service and other causes. Mr. Polk, however, continued in the practice and had recognition as the leader of the bar. Shortly after the dissolution of his firm he formed a partnership with F. M. Hubbell under the firm name of Polk & Hubbell, which firm did a very lucrative business for several years, and acquired a most enviable reputation as practitioners of the law as well as successful financiers. Mr. Polk is a man of very high order of ability; a very thorough student of the law and of his cases, and wielded an influence with the bar and the bench, unsurpassed.

F. M. Hubbell was born in Connecticut where he received a good New England education and came west in 1858 and after a little located at Des Moines, where he at first engaged in the United States land office as clerk and later formed a partnership with Jefferson S. Polk under the firm name of Polk & Hubbell. His firm did the leading law business of the county and district and obtained great prominence, not only as successful practitioners of the law but as financiers. His very decided success in the financial world led him from his love and regard

for the law as a profession, but just when that was done it is difficult to say. The same is true of Mr. Polk. Mr. Hubbell gave his attention to the business part of the practice and therein surpassed and distanced all his brethren in the profession.

E. J. Ingersol was born in New York and there received a thorough common school and academic education. He studied law at the United States Law School at Balston Spa from which he graduated in 1852, and was admitted to the bar. He entered the practice of the law at Adams, New York, and built up a lucrative and successful practice. In 1858 he moved to Des Moines and resumed the practice there which he continued with very decided success for several years. Mr. Ingersol was a man of quite more than ordinary ability as a lawyer and he gave very close and thorough attention to his cases, and was really making a decided success in his profession. In 1865 he organized the Hawkeye Insurance Company and became its president, and gradually, by reason of his great success with that company, withdrew himself from the profession, and made a fortune out of his corporate venture.

John A. McCall was born in Polk county and acquired his education in its schools up to his qualification to enter the Iowa State University from which he graduated and then entered the law department of that institution and graduated therefrom in 1872. He then went to Nevada and embarked in the practice of the law there, but in 1875 he removed to Des Moines, where he resumed the practice and has continued in it down to date, exhibiting always, both at school and at the bar, marked ability.

Ira M. Earle was born in Brattleboro, Vermont and acquired his education there up to the fitting for college and then, coming to Iowa, attended the Central University of Pella. Later, he entered the Iowa College of Law at Des Moines, and after taking a full course therein, graduated in 1877. He then opened an office at Pella and en-

tered upon the practice of the law, which he conducted there with marked success for ten years. His practice at Pella was good and more than remunerative. He then removed to Des Moines and continued the practice there. In 1891 he formed a partnership with S. F. Prouty and the firm of Earle & Prouty did a large and successful business. As a lawyer Mr. Earle was noted for his careful and thorough investigation of his cases and for complete familiarity with the facts and the law connected with them. In 1898, upon the election of Mr. Prouty to the bench of the District Court, the firm was dissolved and Mr. Earle has since continued the practice alone. He has, for a few years, last past, devoted much of his time to insurance law and is the general counsel for the Banker's Life Insurance Company of Des Moines.

James C. Hume was born in Cincinnati, Ohio, where he obtained his education, up to the full preparation for college, and then entered Hanover College, Indiana, from which he graduated in 1880. He then taught school for a time in Kentucky, and pursued the study of the law contemporaneously. He then went abroad and pursued his legal studies for a time in the celebrated University of Paris and returning, entered the Law School of Cincinnati from which he graduated in 1884. Shortly thereafter he came to Des Moines and entered upon the practice of the law, first in partnership with Mr. Dawson under the firm name of Hume & Dawson which continued only for a short time, Mr. Dawson retiring and Mr. Hume continuing the practice. Upon the retirement of Judge Kinne from the Supreme Bench, a partnership of Kinne, Hume & Bradshaw was formed, but from which Judge Kinne soon retired to give attention to the duties coming from his appointment as a member of the Board of Control. Mr. Hume is a very careful, industrious and painstaking lawyer and has for many years conducted a lucrative legal practice and still continues it. He is a man of excellent charac-

ter, who has given close attention to business and won success.

W. A. Spurrier was born in Ohio and came with his parents the year of his birth to Iowa where his parents located in Adams county and he acquired his education in the common schools of that county and the high school at Corning, Iowa, and thereafter under a private tutor. He studied law also in Corning, with competent practicing attorneys there for full two years, and then upon examination was admitted to the bar in 1876. At once he opened an office at Corning and commenced the practice of the law, and enjoyed a remunerative practice from the first, which he continued down to 1882 and in the meantime his business grew and he attained recognition as one among the leaders of the bar of his county and district. He then removed to Creston where he continued the practice for about four years, and removed to Des Moines in 1886. His reputation had so preceded him in Des Moines that he entered with great readiness upon a good practice, which constantly increased until 1893 when he was appointed judge of the District Court for that district. This appointment was made by Governor Jackson pursuant to a statute providing for the increase of the number of judges by one in that district. At the next regular election he was elected to a full term. His administration of the office was able, prompt, impartial and satisfactory. His taste was better satisfied at the bar than on the bench and in 1897 he resigned his position on the bench and returned to the bar, at which he has, with his partners, conducted a lucrative practice. Judge Spurrier is a strong, aggressive and successful lawyer.

Marcus Kavanagh was born in Polk county and was educated there up to the full preparation for a college course and he went to Notre Dame, North Bend, Indiana, for his college education and took a very thorough and full course there, and thereafter studied law in the law de-

partment of the same excellent and strong institution. He then returned to Des Moines and entered upon the practice of the law there which was attended with signal success. He continued the practice till about the year 1888 when he was elected Judge of the District Court and continued his service on the bench as judge with decided success for one full term, during which his administration was able, dignified, impartial and acceptable. At the close of his term he declined reelection and shortly after removed to Chicago, where he opened an office and entered upon the practice of the law in which he was most successful; but after about three years of practice he was elected to the circuit bench there, and has continued on the bench there down to the present time. This history confirms the excellency of his administration as a judge and renders any further commendation unnecessary.

Hugh Brennan was born in Ireland but came with his parents to this country when about five years of age. At first they stopped at Philadelphia, then removed to Pittsburg and later came to Des Moines. His school education was acquired in Philadelphia and in Pittsburg, and his coming to Iowa was after he had attained majority. He was very industrious and, having settled in his purpose to become a lawyer, he pursued the preliminary studies to prepare himself for the study of that profession. The necessities of his family demanded his attention to revenue yielding labor and dwarfed much his opportunities for the study of the law. He was fond of independent study and pursued it with great persistence, using every possible spare moment therefor, until 1874. He then entered the law office of Smith & Bayles, a strong law firm of Des Moines, and after pursuing the study with them and under their direction, he was admitted to the bar in February, 1878. He served as assistant city solicitor, and in 1890 was elected to that office just after the boundaries of the city had been extended so as to include some outlying but

contiguous municipalities. This extension of the boundaries cast very extended and onerous duties on the city solicitor which were discharged with great ability and fidelity and to the great satisfaction of the people. In 1902 he was elected one of the district judges of the Seventh judicial district consisting of Polk county, there being three other judges elected at the same time. He discharged the duties that devolved upon him as such judge with such devotion, integrity and industry, as that he was reelected to the same position for another term in 1906.

Charles A. Van Vleck was born in Butler county, Iowa, and acquired his education in the common schools of that county, in the Iowa City Academy and in the State University of Iowa. He read law for two years with Gibson & Dawson, a very strong legal firm of Waverly, and was admitted to the bar in 1889. Directly after he was admitted he began the practice of the law at Waverly and continued such practice which was remunerative from the first and constantly increasing until 1896, when he removed to Des Moines and resumed the practice of the law there. In 1899 he was made assistant attorney general of the state of Iowa, and discharged the duties of that office with signal ability for nearly five years. Mr. Van Vleck evinced in the discharge of his duties as assistant attorney general the same unostentatious but persistent and continual study which had characterized him as a practitioner engaged in the general practice, and his success therein was very marked and approved. After concluding his services as assistant attorney general, he resumed the general practice in Des Moines and has continued the same to date, but has devoted quite a considerable portion of his time to his duties as professor of law in the law department of Drake University, wherein he has achieved a most excellent reputation.

CHAPTER LII.

ACCESSION OF JUDGE WEAVER TO THE SUPREME BENCH; NOTICES, ETC.

With the close of the year 1901 the term of Judge Given for which he was reelected expired, and he was not a candidate for reelection. Silas M. Weaver of Hardin county was nominated and elected at the November election, 1901.

Silas M. Weaver was born in Chautauqua county, New York. He received a New York course, which is a very thorough course of common school instruction, and then completed an academic course of much thoroughness in Fredonia Academy, New York. This education was supplemented by some time spent in teaching in the academy at which he had taken his academic course. He studied law and was admitted to the bar in Buffalo, New York, in 1868. In that year also, he came to Iowa, and located at Iowa Falls, where he opened an office and entered upon the practice of the law, and in which he met with signal success, and came to be recognized as one of the leaders of the bar of his county and district. He was elected to the house of representatives of the Twentieth general assembly, wherein he served with marked distinction and efficiency. So fully satisfactory were his services as that his constituents demanded that he should stand for reelection, which he did, and was returned to the house of the Twenty-first general assembly. He had served as chairman of the judiciary committee in his first session, and in the next he was made chairman of important committees and also of the board of managers to prosecute the impeachment of state Auditor John L. Brown. His ability as a lawyer attracted

much attention in the conduct of that impeachment and did much to exalt the reputation for ability and thorough knowledge of the law of Judge Weaver. In 1886 he was elected Judge of the Eleventh judicial district, in which district there are several counties having very able members of the bar in each. The bar of that district has always ranked high for learning and ability and has furnished many important cases for decision by the supreme court. Judge Weaver's ability, impartiality, integrity and industry were shown and recognized during his service and he was reelected to the same position in 1890, and again in 1894, and still again in 1898. He was elected Judge of the supreme court and took his seat as such in January, 1902. As a Judge of the supreme court he has shown great ability, untiring industry and exhaustive research. He has a vigor and forcefulness of style which give to his opinions a decided character. Judge Weaver's natural bent of mind is more in the line of advocacy than of analysis, and yet his vigorous grasp, together with his exhaustive research and comprehension, enables him to reach a just and impartial conclusion. His industry and persistent determination to have full possession of a case leads him, irresistibly, to that exhaustive investigation which brings to him the case in all its fullness and bearing and thereby to comprehend and attain a just and legal conclusion. He is a most conscientious, considerate and faithful judge.

In the early part of 1902 the case of Ella Edgington by Ida M. Meyer, her next friend, appellee, v. The Burlington, Cedar Rapids and Northern, appellant, (116 Iowa, 410) was submitted to the supreme court for adjudication. The opinion therein was prepared by Weaver, Justice, and the case involved the question of the liability of a railroad company for an injury to a child occurring on one of its turntables under circumstances more or less complicated, which appear sufficiently in the points de-

cided by the opinion, as follows: A railroad company maintaining a turntable on an unfenced lot, near a public alley, and which was from eighty to three hundred feet from the street, is liable for injuries received by a seven year old child while playing thereon, caused by the company's failure to use reasonable care to so guard and fasten the turntable as to prevent injuries to children tempted to play on it. Also, where, in an action against a railroad company for injuries received by a child while playing on defendant's turntable, it was shown that the turntable was unfastened by one of the children with plaintiff, the question of the sufficiency of the fastening used was one of fact for the jury. Also, a child seven years and eight months old cannot be considered, as a matter of law, of sufficient age and intelligence, to appreciate the danger to which she exposed herself in playing on a railroad turntable, and such question was properly left to the jury in determining the question of contributory negligence. Also, the fact that injuries received by a child while playing on a railroad turntable were immediately caused by the child's playmates unfastening and operating the turntable, does not relieve the company from liability, the gist of the action being the keeping of a dangerous machine in a place where children might reasonably be expected to resort and to play thereon. The judgment of the district court was therefore affirmed.

William H. McHenry, Jr. was born in Des Moines, a son of Wm. H. McHenry, Sr., whose sketch we have before given. He acquired his education in the common schools and high schools of his native city and then entered the Iowa Agricultural College at Ames, from which he graduated with honors in 1881. He had early determined to pursue the profession of law, since therein his father had attained distinction. He then entered the law department of Drake University and graduated therefrom in 1883, after taking a very thorough and studious course

therein. Directly after graduation in the law, he opened an office in Des Moines and commenced the practice. He very readily secured clients which gave him a remunerative practice from the first and which rapidly increased until he became one of the very busiest practitioners in Des Moines. He gave his attention to general practice including the defense of persons charged with crime, and attained an early enviable reputation. In 1887 he formed a business arrangement with his father, who had then just retired from the district bench, and the firm of McHenry & McHenry continued until the close of 1889 when the partnership was dissolved and the subject of our sketch continued the practice alone. Mr. McHenry's thorough education, both in the sciences and in the law, together with his untiring industry and naturally aggressive disposition, enabled him to press to the very front as a successful practitioner, and he acquired and retained a large and lucrative practice. In 1902 he was nominated and elected as one of the Judges of the district court for the capital district which is composed of Polk county alone. By reason of a vacancy occurring after his nomination, he was at once appointed judge and entered upon the duties of that office in the fall of 1902. He served the vacancy and one full term and in the fall of 1906 was reelected and is continuing in service. The natural characteristics of Mr. McHenry, which we have more or less indicated, have made him a very able, successful and satisfactory judge. His great readiness of apprehension and prompt solution of problems and thorough conversance with the law enable him to dispatch business with promptness and thereby commanding the approval of the people. Judge McHenry is a conscientious man of undoubted integrity and impartiality and these virtues, coupled with his ability, have enabled him to win decided success on the bench.

Walter McHenry, also a son of Judge Wm. H. McHenry, Sr., and younger brother of the subject of the fore-

going sketch, was born in Des Moines where he received a good common school and high school education, securing special honors in the latter. Then he entered the Iowa Agricultural College at Ames, wherein he took a thorough course and graduated, also with honors, in 1885. He then studied law in the office and under the instruction of his brother and was admitted to the bar in 1886, and at once entered upon the practice of his profession. He was in partnership for some years with his father, after his father's retirement from the district bench, and has had different partners in the course of his professional career. He has been engaged in the general practice of the law but may fairly be said to give special attention to the practice of law in criminal cases wherein he has attained very great success and is recognizedly at the very head of the bar in that department of practice.

Edward B. Evans was born in Davis county, Iowa, and there acquired his common school and high school education. He devoted his attention for three or four years to revenue paying industry and then entered upon the study of the law which he pursued till he was admitted in January, 1888. He then entered upon the practice of the law in Des Moines and continued therein with fairly remunerative business until January, 1894, when he was appointed by President Cleveland, register of the United States land office at Des Moines. The duties of that position during the term of Mr. Evans' service therein, which was about four years, were quite more than at any time for the preceding twenty years or more. This, because of the forfeiture of about twenty-five thousand acres of land embraced in the land grant made by the federal government to the Sioux City & St. Paul Railway Company. This amount of land, being thus returned to the government and resuming its original position as public lands caused more or less of a rush thereto for homesteads, timber claims, pre-emptions and other

bases of assumed right to acquire title, and the controversies between this variety of claimants were brought before the Register for decision. About three hundred cases were determined by Register Evans during his service and it ought to be a matter of congratulation to him, that on appeal to the commissioner of the land office and then sometimes to the secretary of the interior and in a few instances to the U. S. supreme court, these different appellate tribunals, with almost uniformity, affirmed the decision of the register. After the close of his service as such register of the U. S. land office at Des Moines he resumed the practice of his profession which he has continued. In 1900 Mr. Evans was made professor of law in the law department of Drake University and also secretary of the faculty, and has from that time, hitherto, discharged with fidelity and great satisfaction, the duties thus devolved upon him. With his untiring industry, energy, and activity, he has made himself proficient, and attained to great excellence as a teacher in the topics of the law chosen by him. On the retirement of Judge C. C. Cole as dean of the department on January, 1907, under the retiring allowance made him by the Carnegie Foundation in aid of teaching, Professor Evans was made acting Dean of the department, and at a meeting of the Board of trustees held later, was elected dean, the duties of which he will enter upon at the opening of the coming school year. Mr. Evans is a man of thorough Christian character; intensely devoted to his profession and duties, very fruitful in expedients, and well adapted to the work before him.

James A. Howe was born in Michigan and resided there with his parents until about fifteen years of age and there acquired his common school education and something of a high school course. He came with his parents to Polk county about 1880 and the parents settled upon a farm and engaged in farming. Mr. Howe pursued his

Nathan E. Coffin

education further in the high school and prepared himself for entering Drake University wherein he also continued his education. Later, he entered the Iowa College of Law—the law department of Drake University, and after completing a full course therein graduated in 1889 at which time he was admitted to the bar. He immediately entered upon the practice of his profession in Des Moines by himself, and continued with a fairly remunerative business until 1895 when he formed a partnership with Jesse A. Miller, which was continued for several years, during which time he was elected county attorney, and on the first of January following, entered upon the discharge of the duties of that office, which he discharged with devoted and persistent industry, being aided also therein by his partner as an assistant. He discharged the duties so satisfactorily that he was reelected for a second term which he also served with like satisfaction. In 1902 he was nominated and elected one of the judges of the district court for the Ninth judicial district, which consists of Polk county alone, and entered upon the discharge of the duties of that office at the beginning of January, 1903.

Judge Howe's general education and his thorough acquaintance with the law, together with his untiring industry and unrelenting persistence, have enabled him to discharge the duties of his judicial position with ability and satisfaction. As full verification of the foregoing, we simply add that he has been with great unanimity nominated and reelected for the second term which he is now serving.

Nathan E. Coffin was born in Allegheny City, Pennsylvania, and there acquired his common and high school education. He came with his parents to Des Moines when about seventeen years of age and there attended the Des Moines College and graduated therefrom in 1881. He then entered the Iowa College of Law—the law department of Drake University—and graduated therefrom in

1882. He then entered Harvard College, Cambridge, Mass., and graduated therefrom in 1885 with the degree A. B. In 1886 he was admitted to the bar and shortly thereafter entered upon the practice of the law, in Des Moines. He formed a partnership with Judge W. A. Spurrier and Hon. C. C. Dowell under the firm name of Spurrier, Coffin and Dowell and continued practice with them for some three or four years. It was a strong firm and they did a good business. He then formed a partnership with C. A. Dudley under the firm name of Dudley & Coffin which firm still continues. It is one of the very leading firms engaged in the practice of law in the city and is doing a very large and lucrative business. In 1891 Mr. Coffin was elected to the house of the Twenty-fourth general assembly and discharged the duties of that office with great efficiency and satisfaction, securing for his locality the desired legislation and guarding well the interests of the capital city and county. Mr. Coffin is a man of excellent character and takes a prominent part in all the varied interests of his home city.

Cassius C. Dowell was born in Greenfield township, in Warren county, Iowa, and received his common school education there. He then entered the Des Moines College and pursued his studies there for one year and then entered Simpson College and passed his freshman year there and later entered Drake University at Des Moines from which he was graduated in 1886, thus completing his literary education. He read law for a year with J. R. Barcroft and also took a full course in the law department of Drake University, and was graduated therefrom and admitted to the bar. He at once began the practice of the law in Des Moines, having from the first a remunerative business, and has continued such business since, subject to the discharge of the duties to which his fellow citizens have called him. In 1893 he was elected from Polk county to represent that county in the House of the

CARROLL WRIGHT.

Twenty-fifth general assembly, the duties of which position he discharged with efficiency and great acceptability. He was in 1895 reelected to the same office in the Twenty-sixth general assembly, of which he was elected speaker pro tem. His familiarity with the duties of the office, acquired during the first term of his service. enabled him to accomplish more for his constituents and state than in his first term. In 1902 he was elected to the state senate from Polk county and his legislative experience in the house qualified him for the most efficient discharge of his duties in the senate. His experience and activity, together with his marked ability for such duties, gave him a high standing with his brother senators and enabled him to accomplish much for his immediate constituents, the capital city and county. So ably and efficiently did he discharge the duties of senator that he was renominated and reelected for a second term, the duties of which he has discharged through one session and is abundantly qualified and ready for the discharge of the remaining duties of his office.

Carroll Wright was born in Keosauqua, Iowa, and is the son of George G. Wright, for many years chief justice of the supreme court of Iowa, and for one term a senator from Iowa in the Senate of the United States. Carroll Wright's earliest education was at his native village, but he came to Des Moines with his father and family in 1865, and the balance of his education, common school and high school, was acquired in Des Moines. He then entered the Iowa State University and after taking a full and thorough course of four years, graduated therefrom in 1875. For a year or two he devoted his time to journalism in connection with the State Register, and then entered the Iowa College of Law at Des Moines and after taking a full course therein graduated in 1878. At that time the Iowa College of Law was affiliated with Simpson Centenary College, and the diplomas were issued by that

institution and under that authority the degree of LL.B. was duly conferred. Shortly after graduation he commenced the practice as a partner with his father and his brother T. S. Wright and A. B. Cummins, the firm being Wright, Cummins & Wright. After a little his father retired from practice and his brother was appointed attorney for the Chicago, Rock Island & Pacific Railway Company and the firm became Cummins & Wright, and so continued for between one and two decades. That firm had recognition as leaders of the bar in Des Moines, and probably did the largest business of any firm at the capital or elsewhere in the state. After Mr. Cummins was elected Governor and withdrew from the firm, Mr. Wright was appointed attorney for the Chicago, Rock Island & Pacific Railway Company for the States of Iowa and South Dakota, and he has continued in that position to the present date. Mr. Wright is very thoroughly cultured in the law; has great readiness of apprehension, and is possessed of a broad and searching judgment and withal is especially fond of corporation law, and with these qualifications it is not strange that he occupies an enviable position in the front rank of the bar of Iowa. For some years he was engaged in the general practice as well as giving his attention to corporation cases, and he stood high as a trial lawyer in such cases. He is by heredity, by environment and by endeavor, a lawyer.

Orlando M. Brockett was born in Polk county, Iowa, and acquired his education in the common schools and high schools of Des Moines, and then attended the State Agricultural College at Ames for his further and higher education. He studied law for a time in the office with McHenry & Bowen, and thereafter entered the Iowa College of Law from which he graduated in 1880, and was then admitted to the bar. He began the practice of the law also in Des Moines and has continued a very successful practitioner down to date. He has had associates in

business much of the time, the present firm being Bowen & Brockett. Mr. Brockett is a man of fine natural endowment; very thoroughly read and cultured in the law; untiring in his industry and relentlessly persistent in his study and maintenance of the questions involved in his cases. His exhaustive investigation of any questions which come before him, makes him a very strong antagonist. He has always commanded a good business and has cared for the same with more than the full average of success. He is a man of excellent character and active in all public matters worthy of advocacy and support.

Jesse A. Miller was born in Johnson County, Iowa, and acquired his education in the common school and the high school at Oxford in that county and then entered the State University at Iowa City and pursued further his studies there. After completing his higher academic studies, having determined upon the law as a profession for his life, his uncle, William E. Miller, having attained very great distinction therein, he entered the Law Department of the State University, and after taking a full course of study therein, graduated in 1891. He then removed to Des Moines, and there located in the practice of law, wherein he has continued to date. After practicing alone for a time he formed a partnership with James A. Howe, under the firm name of Howe & Miller, and continued the practice in such association down to the time of the election of Judge Howe to the district bench. He was assistant county attorney for two full terms, and as such took an active part in the discharge of the business and duties connected with that office, whereby he extended his acquaintance much and also enlarged the scope and the magnitude of his business in the general practice. He was also assistant attorney general of the state for about three years and became very familiar with the criminal laws of the state and in the prosecution in the supreme court of persons charged with crime, as well as with the

general business of the attorney general, proper. In 1906 he was nominated and elected one of the judges of the district court for the Ninth judicial district, Polk county constituting that district, and took his seat upon the bench at the beginning of 1907. Judge Miller was a vigorous, energetic and successful practitioner at the bar, and these characteristics gave prominence and success to his duties in connection with the county attorneyship. Judge Miller is a man of excellent character, thoroughly conscientious, faithful and impartial in the discharge of his duties, and has before him a career of great promise and usefulness.

CHAPTER LIII.

ACCESSION OF JUDGE BISHOP TO THE SUPREME BENCH; NOTICE OF GENERAL F. M. DRAKE.

In June, 1902 Judge Charles M. Waterman, who had been elected one of the Judges of the Supreme Court in 1897, his term beginning in January, 1898, resigned his office as judge for the purpose of returning to the bar and resuming the practice of the law at Davenport, his home city. On July second, 1902, Governor Cummins appointed Judge Chas. A. Bishop to the vacancy thus caused by the resignation of Judge Waterman, and Judge Bishop entered upon his duties immediately.

Charles A. Bishop was born in Waukesha county, Wisconsin, and acquired his district school education there, pursuing other studies also at home. He supplemented this education by engaging for some time in teaching, taking charge of a school at Clintonville, Wisconsin, and pursuing his further studies concurrently with his teaching. Before attaining majority he began the studying of

the law, first in connection with teaching and later in the office of a leading lawyer of Whitewater, Wisconsin. After pursuing the study of the law with all the advantages he could command, he was admitted to the bar at Waupaca, Wisconsin, in 1875. Directly after being admitted to the bar he removed to La Porte, Iowa, and there entered the practice of the law with his uncle, George Bishop, and continued until the spring of 1883, when he formed a partnership with Judge S. Bagg and removed to Waterloo, and engaged there in the practice. After the firm of Bagg & Bishop had practiced for a time at Waterloo, they removed to Minneapolis and began practice there under favorable auspices. The death of Judge Bagg, which occurred about one year later, dissolved the firm and determined Mr. Bishop to remove to Des Moines and enter upon the practice of law there. Shortly after locating at Des Moines he associated himself with the firm of Baker & Kavanagh, and continued the practice until the junior member of the firm, Marcus Kavanagh, was elected to the district bench, when the firm of Baker, Bishop & Haskins was formed. A. J. Baker, the senior member of the firm, was elected afterwards attorney general of the state, and thereafter Mr. Bishop devoted much of his time to the discharge of his duties under the appointment he had received of assistant attorney general. This appointment was made, having special reference to railroad litigation. He continued in this capacity until the spring of 1889, when he was appointed one of the judges of the district court for the Ninth judicial district to fill a vacancy resulting from the resignation of Judge Given to accept a seat on the supreme bench. He took his seat upon the bench pursuant to his appointment and at the fall election, was elected by the people, to the vacancy to which he had been appointed by the Governor. While he was a resident of Waterloo and engaged in the practice with his partner, Judge Bagg, he was elected to the house of

the Nineteenth general assembly, and he entered upon and discharged the duties of that position with distinction and great acceptability, and derived much credit therefrom at the time. Judge Bishop discharged the duties of district judge with great fidelity and marked ability and continued thereon until the beginning of 1893, when he retired from the bench and resumed the practice of the law. He continued the practice until about 1897 when he was again appointed to the bench to fill a vacancy caused by the resignation of Judge W. A. Spurrier and was elected to the vacancy by the people at the election in the fall, and he continued to discharge the duties of that position to the end of the term to which he had been appointed and elected. His services as district judge were always most satisfactory and acceptable, not only to the bar, but to the people. He again resumed the practice in connection with the firm of Parrish & Dowell, but only continued therein for some six or seven months when he was appointed by Governor Cummins to fill the vacancy on the supreme bench caused by the resignation of Judge Waterman. This appointment took effect about the second of July and he was elected by the people to the same position at the fall election, and upon the expiration of that term was reelected for the full term. Judge Bishop's great readiness of apprehension, his fine command of language and his extended knowledge and conversance with the law, serve him greatly and well in that part of his duties connected with the preparation of opinions. His marked ability, his power of analysis, his well balanced judgment, together with his unquestioned integrity and impartiality especially fit him for the discharge of his duties which he has done with great acceptability.

At the October term, 1902, of the supreme court, the case of the City of Cherokee vs. E. R. Perkins, appellee (118 Iowa, 405), came before the supreme court for adjudication. Bishop, Justice, prepared the opinion. The

case as stated in the opinion, was a prosecution by the city of Cherokee of the defendant, E. R. Perkins, for his itinerant practice of dentistry contrary to an ordinance of the city of Cherokee which expressly prohibited the practice of dental surgery under the circumstances of itinerancy shown and undisputed in the case. The statute, section 700 of the Code, confers upon cities and towns the power to regulate, license and tax "itinerant doctors, itinerant physicians and surgeons," etc. The only question for determination is whether a practitioner of dental surgery comes within the definition of itinerant doctors or itinerant physician or surgeon, and the rule announced by the opinion was that "The power conferred upon cities by section 700 of the Code, to regulate, license and tax 'Itinerant doctors, itinerant physicians and surgeons,' does not include an itinerant dentist."

Francis M. Drake was born in Rushville, Illinois, and there acquired his earliest common school education. When seven years old he went with his family to Fort Madison, Iowa, where he and the family remained for nine years and substantially completed his school education. Again with the family, he removed to a point in Davis county, Iowa, which not long thereafter became the thriving and substantial village of Drakeville, where in association with his father and the only elder brother, was built up a prosperous mercantile, packing and milling business, in which our subject acquired a business education concurrently with more book knowledge, including the reading of the law, which his industry and studiousness enabled him to accomplish. After attaining his majority, and in 1852, he crossed the plains to Sacramento with two ox teams and five men. Meeting with others in Nebraska with like purpose, a train composed of twenty men and numerous teams was organized, of which our subject was made captain, and as such conducted the train and at least one successful battle with the Pawnee Indians. This en-

terprise, having been successful, upon his return he organized a second and larger, which was also successful; but upon his return, he became a passenger on the ill-fated steamer, "Yankee Blade," which was wrecked and totally lost on the Pacific, September 30, 1854, and our subject narrowly escaped and was picked up five days later on a barren shore. After his return, he engaged in business in Unionville, Appanoose county, which he continued until the outbreak of the War of the Rebellion, when he organized an independent regiment of which he was major, which rendered efficient service in driving the rebels from north Missouri. Later he organized the Thirty-sixth Iowa infantry, of which he was made lieutenant colonel and rendered most extended and gallant service during the entire war and won commission as brevet brigadier general, by reason of most persistent service as commander at the battle of Mark Mills. At this battle he was very seriously wounded by receiving an ounce and a half Belgium ball in the left thigh, which fractured the bone and was at the time supposed to be mortal. He did, however, recover, and after about six months returned on crutches to the service and continued therein until the muster out in 1865.

Upon his return from the war he resumed the mercantile business, but finding his wound such as to prevent his activity therein, he was admitted to the bar and commenced the practice of the law which he continued for several years with very pronounced success. A part of the time he was a partner with Amos Harris, afterwards judge of the district court, and another part with A. J. Baker, afterwards attorney general of the state. His business was largely the general civil business, but he acquired such a reputation for the defence of persons charged with crime that he was invited and went to Missouri in 1879, where he defended Bill Young, a notorious character, charged with the murder of the Spencer family and

after his successful defense in securing from the jury a verdict of not guilty, a body of infuriated citizens who believed him guilty, secured a reversal and the execution of the victim by an improvised court presided over by Judge Lynch. This case and event closed the professional career of Francis M. Drake. The great success of his subsequent business career is more or less without the pale of our purpose.

In 1895 Francis M. Drake was elected governor of the state of Iowa, and he entered upon his duties the following January. His election was by a very large majority and his administration was a most undoubted success, whereby the interests and reputation of the State government were greatly enhanced.

His influence upon the jurisprudence of the state and the nation was not alone through his services as a lawyer and as a governor, but by his generosity and support of the Iowa College of Law. He contributed thereby very much indeed to the jurisprudence of the State and country. That institution was organized six years anterior to the organization of Drake University, but upon the organization of Drake University in 1881, General Drake, for the purpose of securing the earliest attainment of a university characteristic—an association of colleges—made arrangements with the Iowa College of Law whereby it should become an integral part of Drake University, and by his then present aid and assurance for the future, brought about the accomplishment of his purpose, and secured the Iowa College of Law as the law department of Drake University. The diplomas to its graduates thereafter were issued by the corporate authority of that well founded institution. General Drake did not want a mere nominal law department but desired and demanded, from the first, that the instruction imparted through its instrumentality should be of the broadest and the best. Accordingly, from the beginning, watchfulness and effort have been exerted

for securing the best instructors for the law department as well as advancing and broadening the topics of instruction. As illustrating in part the measure of success along this line, we give here the names of some of the instructors who have been connected with and have more or less exercised control over the law department during its career: C. C. Cole, George H. Lewis, A. H. McVey, Andrew J. Baker, Charles A. Bishop, James C. Hume, Josiah Given, L. G. Kinne, N. E. Coffin, C. A. Dudley, William H. McHenry, H. F. Dale, E. B. Evans, Charles A. Van Vleck. With the determination to increase the usefulness of the school, the length of the course of instruction required to be taken therein, has been extended from the one year which was at first adopted and generally obtained in other law schools, to two years and then to three years, the longest period required by any law school in the land. Another means adopted for the purpose of enhancing the value of the instruction imparted, has been the elevating of the standard of preliminary requirements for admission to the school, and this standard has extended from the very limited course to the full four years' course in standard and accredited high schools. In all these respects the Law Department of Drake University has kept itself fully abreast of the best law schools in the land. In the number of topics taught, the law department of Drake University has exceeded the very highest of the schools in the land. But few of the schools have over thirty-one or two topics, while the Iowa College of Law—the law department of Drake University—has forty-eight distinct topics (limit of space precludes listing them in detail here), which it teaches with great thoroughness; and in order to accomplish this, requires that each student must have at least fifteen hours per week of class room exercise or recitation —thus showing a faculty, a curriculum and a period of instruction, not supassed by any American law school.

The students and graduates of this law school number

many over a thousand and they are found in successful practice, not only in Iowa, but in every adjoining state and many other states. Their influence upon the jurisprudence of the land may be estimated from the statement that at least one of them has been governor of Iowa, more than twenty-five have administered the law from the district bench and nearly one hundred have been prosecuting attorneys and several of them have been instructors in law schools. In view of these facts, it can hardly be too much to say, that General Francis M. Drake has directly and indirectly exerted more and broader influence upon the jurisprudence of the state and nation than any man within its borders.

CHAPTER LIV.

VALUE OF JUDICIAL OPINIONS; ORAL ARGUMENTS; RULES OF COURT.

We have given with fidelity and faithfulness the biographies and the mental characteristics of every man who has ever occupied a position upon the bench of the supreme court of the territory and of the state. From what has been given, a judgment more or less accurate, may be formed of the ability or capacity of each for the discharge of the duties devolving upon a judge of the supreme court. But the soundness or the wisdom of the judgments of a supreme court, cannot be determined alone from the capacities of the judges composing such court. It would be very difficult indeed, to determine with any degree of satisfaction from the limited information given, which one or more of those who have occupied that exalted position, would pronounce the wisest or best judgments. Indeed, very much of the results of the labors of the individuals associated together as a supreme court, depends upon the

manner in which they do the business of that court; quite as much, it seem to me, as upon the learning or capacity of the individual members of the court. The thought underlying the foregoing, may perhaps be better illustrated by a reminiscence than by any statement which could be made of it. A few years ago, a distinguished member of the bar residing remote from Des Moines, came into my office and said that he had told his partner before leaving home, that he was going to see Judge Cole when in Des Moines for the purpose of thanking him for a certain opinion he had written, naming it, which he took occasion to eulogize very highly, much of course to my satisfaction. The reply made to him was in substance, "You have very surely my sincere thanks for your statements respecting that opinion, but let me tell you, my friend, that Judge Wright, Judge Dillon and Judge Lowe, are entitled to some of the credit which you seem to give to me for that opinion." The reply was, "How so, since you prepared it, didn't you?" "Certainly, but not without their aid at the consultation table, where the entire case was exhaustively discussed." He replied, "Well, you are a modest man, surely." The answer to which was, "Not so self-abnegatory as you might think, until you hear the balance of my statement, which is, when you find a most excellent opinion prepared by Judge Dillon or Judge Wright or other, please remember that your humble servant is entitled to a measure of credit for it." During most of my service on the bench, the court was a tribunal and not a mere association of individuals, and every case, after being read by each judge individually, had a thorough consideration by all the judges at the consultation table and where there were differences in consultation and heated discussion between the judges, the opinion, by whomsoever prepared, would have a ring, a clearness, and a precisiveness which it would not otherwise possess; the opinions in cases arousing the most heated and extended discus-

sion, are the best opinions and the authors can select them readily.

A supreme court rendering decisions without the first individual reading by its several members followed by a full consultation by all, will not and cannot secure from the profession nor from the legal world, that high approval and full endorsement which it might secure by pursuing the method suggested. If there is any difference in real merit in the opinions and judgments of the supreme court composed of certain individuals at one time, and the same supreme court composed of another set of individuals at another time, it is largely because of the manner in which they did the business of the court. True it is, that a thorough knowledge of the law, abiding fidelity and unswerving integrity, are essentials in every judge of the supreme court; but they do not constitute all the elements requisite for wise and satisfactory results.

Another element or incident in connection with the disposition of cases by a supreme court is not to be lost sight of, but is ever to be regarded; and that is, that technicality has no abiding place and no right to a recognition by a supreme court. It is not meant by this, that well recognized rules of law, whereby close discrimination between things similar though different, are to be disregarded; but there are, in the trial court, multiplied technicalities to which attention is there given rightfully, and this largely because the error which is there found may be corrected by amendment and the ultimate rights of the parties furthered by such technicality; for the door there is broadly open for amendment and thereby setting things right when started wrong. But in an appellant tribunal, no amendment or correction can be made and equal attention there as in the trial court to a technicality, operates to defeat justice or a fair trial, since no amendment can there be made to cure the technical error. While a member of that court and during consultation at the full table, a sugges-

tion was sometimes made, that the case affording much difficulty and discussion, could be very easily disposed of upon a technical point, which was stated. But promptly and always would come from one or more of the judges the statement "that is a technical point and a court of dernier resort ought never to dispose of a case upon such a point so long as there is a possibility of reaching a conclusion upon the real merits of the controversy." An extended experience enables me to state, that nearly every case which reaches the supreme court may be there determined upon its real merits if equal acumen to find such merits is exercised as is required to discover the technical point where by a decision upon the merits is avoided. It is well to remember in this connection that the inclination of the legal professional mind is to technicality; that is to intense acuteness in criticism of words; or, to state the same thought in less objectionable phrase, to attain a precisiveness of expression which excludes doubt. This tendency prostituted and debased the very high and philosophic rules of pleading at the common law, to a debased bundle of technicalities, which have been unloaded through the instrumentality of Codes. That same characteristic is grafting itself upon the simplified code until the plain and ordinary mind tends to a desire for recodification and the reenthronement of plain and true simplicity.

Sometimes a more clear and full manifestation of an idea may be made through illustration. To illustrate our idea of a technicality in this connection, we refer to the fact that by our statute, the appellant in a law action was required to file an assignment of error which must clearly and specifically indicate the very error complained of and the court was required to consider only such errors as were thus assigned. Whether the error assigned in the particular case was sufficiently clear and specific was often a question, not always made by the appellee's counsel, but very frequently by the court. The frequency with which

the court at one time had declined to consider questions which counsel sought to make, seemed to generate more or less of a contest between court and counsel as to whether the error assigned was the error shown by the record. This contest had continued for a considerable time and careful counsel came to make very numerous assignments of error, specifying the error in multiplied forms so as to surely close the avenue of escape by the court from the decision of the case involved in the record. In some instances counsel would multiply the form of assignment into great numbers, and in some cases, while the counsel only claimed, perhaps, that the court had committed three errors, they would state in the assignments, in order to secure greater certainty of assigning the very error shown by the record, to as many as five hundred assignments. Early in the session of the Thirtieth general assembly, in 1904, the attention of the legislature, being called to this condition, it was enacted that no assignment of errors shall be required in any case now pending or hereafter brought. This, perhaps, is a good illustration of the one form of technicality referred to.

Again, among the rules of practice prescribed by the supreme court, is one respecting the form and manner of preparing abstracts. One of which rules was and is that the appellant must state in his abstract the date on which the appeal was perfected by service upon the appellee and the clerk of the district court, from which the appeal came. Notwithstanding the existence of this rule, it has sometimes happened that counsel, more intent upon getting before the court the real case and the points of the record required to bring the case upon its real merits before the court, have forgotten or omitted to state in the abstract the fact of the appeal and when taken, although they had taken the appeal regularly and the notice of it, together with the return or acceptance of service, were filed with the clerk of the supreme court. The opposing

counsel, also, intent upon the presentation of the real merits of his side of the case, and knowing that in fact, an appeal had been taken regularly, proceeded to the argument and submission of the case upon its merits, without making any objection to, and probably without observing the omission by the appellant. The court, however, finding that the omission has been made, dismisses the case because of it and no opinion is filed, nor decision upon the merits of the case is made. A petition for rehearing, stating the facts and asking to be heard because the appeal was in fact perfected in the particular case, is overruled. This presents another phase of technicality.

These illustrations may add force to the suggestion, that technicality in the law has no rightful place in a supreme court. Of course we do not speak, under the term "technicality," of those rigid rules of law which by long usage have been proven well founded, settled and necessary to the attainment of justice.

Every supreme court, we believe, has two methods, whereby it receives the submission of causes pending before it. The one, is by means of a printed argument, and the other, by means of an oral argument, and sometimes both methods are employed in the same case. Ordinarily and properly the method of submitting, whether in print or oral, is left to the choice of counsel, but the exercise of this right, in either mode, is subject to rules and regulations prescribed by the tribunal itself. The rules prescribed by the supreme courts, generally if not uniformly, in regard to submitting a cause in print are substantially the same. The party having the affirmative opens the argument, the opposing party makes answer, and then the first party replies; and this closes the arguments, no limit of any kind being prescribed. The rules regulating oral arguments, are the same with respect to the order, and the court ordinarily prescribed the limit of time within which the arguments must be made.

Our statute prescribes only one case in which the court must allow counsel to be heard orally, if he so desires, and that is in the argument of a petition for rehearing. At one time the court did not allow oral arguments of such petitions, but by Chapter 144 of the Acts of the Nineteenth general assembly (Code, 4149), the legislature gave the absolute right to counsel to be thus heard.

The only reason, or perhaps, more properly, the only argument advanced against the submission of cases to the court, orally, is the matter of time, thereby consumed. This argument, however, is more or less dwarfed in its force, by the fact that it has always been recognized as the rightful province of a supreme court, to limit the time occupied by an oral argument. This power of limiting, is not denied to any supreme court, and in only one case, we believe, to the district court; and that is, the argument to the jury by counsel, in any case, civil or criminal. Opposed to this argument against oral submissions there are numerous suggestions. It is probably true that by nature or naturally, every individual can express his or her thoughts more readily, clearly and certainly, orally, than by writing. By practice many have acquired the capacity of more condensed expression when made in writing than when made orally. But with the large majority of the legal profession, it is true, that each can better and more clearly present his thoughts and arguments in connection with a case, orally, than he can in writing.

Besides this, there is in the very act of speaking to attentive auditors, aroused an inspiration in the speaker which gives added freedom and force to his utterances. And this inspiration is communicated to the auditors, and arouses within them a mental activity which brings a fuller and more ready comprehension of the matter spoken, so that the actual effect of the same matter is more when spoken than when written; and to this may be added the thought, that the inspiration aroused by the speaking pro-

duces better matter than by writing. But it is truly said by the judge or court, that so many of the lawyers occupy the time of the court without presenting matter enough to justify the court in its waste of that time, since the court could employ that time to better advantage in its own investigation of the questions involved; and that besides this, the matter of the presentation is often tiresome and tedious.

It may be granted that each judge on the bench knows more of the law than does the counsel arguing the case, and knows better the very law which must be applied in the determination of the case. But it is generally true, also, that the lawyer making the argument, has literally slept with his case nights, and has traveled with it days, and is thoroughly conversant with every fact in connection with it, and he has investigated and is familiar with very much of the law applicable to his case; and if you will but hear him patiently and inquiringly, he will present to the judge and the court a view of the case which no member of the court would otherwise have had. His examination of the case has given to him, together with his interest in the case, a possible bias, and indeed he ought always to have it; but it is that view of the case which that bias has created, and which view the judge ought to have in order to enable him to wisely and comprehensively determine the proper judgment.

It may be, that much of the time will be consumed in the discussion of matters which are fully known to the court or would be readily apprehended at a reading. But in the course of the entire argument, you may be assured that he will present some thought or thoughts of material value in determining the case, and very often such thought or thoughts as would not have come to the court but for his argument. Generally, a lawyer presents but the one side of the case, and often presents that very much overdrawn and possibly upon facts of the case which exist

mainly in his biased view; and he will consume time in the presentation of this, and yet the deliberate and patient listening will give to the court in its judicial and impartial consideration and weighing, a view which would not otherwise come to it. My experience is a verification of the fact that a court cannot listen to an argument by a lawyer connected with a case, without deriving some profit from such argument. The measure of profit is very different in different cases, and perhaps too frequently there is less than ought to have been derived from the expenditure of that time. It is true, too, and very often, that the listening to the oral argument of a cause places the case, as a whole, before the court more completely than when submitted in print. The court also, from an oral argument, comprehends better the precise point of law which the lawyer seeks to present.

So far as my inquiries have extended, it may be very safely affirmed, that those courts which invite and patiently listen to oral arguments on the submission of their causes, find their judgments better accepted at home and of more potent influence abroad. The supreme court of the United States receives most of its submissions through both printed and oral arguments; and while it may be true that more of the attorneys appearing before that court are able and forceful in their arguments, quite beyond those who appear before the Iowa supreme court, yet, it may be safely affirmed that the percentage or measure of advantage would be approximately as great to the supreme court of Iowa as such arguments are to the supreme court of the United States.

The rules of practice in the supreme court are not made by the court only for the promotion of its own interest, but for the promotion of the wise and profitable submission of causes to the court. In this the lawyers are just as much interested as are the judges. It is therefore, eminently wise and proper, that the rules of practice

in connection with the submission of cases to the supreme court, if prepared by the court itself, ought to be submitted to the bar for criticisms, objections and approval, and thereby give to the bar a full opportunity to express their views and interest from their side or view point to the court, and for the court, after taking into consideration these criticisms, objections and approvals, to formulate, in their judicial way, the final rules to govern and control the court and the counsel. Finally, it is suggested that larger opportunities for social amenities between the judges of the court and the members of the bar attending and practicing in it from each successive district would doubtless be productive of beneficial results. In all matters, except the discussion of questions involved in pending cases and probabilities as to their result, it would be well if there were greater frankness and more frequent intercourse and converse between the members of the bench and the members of the bar and such course would doubtless result in benefits to each and to our jurisprudence.

PART TWO.

A HISTORY OF THE COURTS AND BAR OF EACH COUNTY IN IOWA, TOGETHER WITH BRIEF SKETCHES OF MANY OF THE LAWYERS FORMERLY AND NOW PRACTICING THEREIN.

ADAIR COUNTY.

HISTORICAL.

By an act of the general assembly, approved January 12, 1853, Adair county was attached to Cass county for revenue, election and judicial purposes. In April, 1854, an election was held for the election of county officers. George M. Holliday was elected judge and John Gilson, clerk. The first court was held the 6th day of May. By an act of the legislature in 1855, the county-seat was located through a commission composed of Geo. B. Hitchcock of Cass county, Elias Stratford of Madison county, and John Buckingham of Page county. They filed their report on the 27th of April, 1855, fixing the location and naming it Sommerset. This name was changed in 1856 to Fontanelle, by act of the general assembly. A county-seat war grew up later between Fontanelle and Greenville, begining in 1858, and terminating in the supreme court, and soon afterwards the public records were removed to the new and present county-seat at Greenfield.

THE COURTS AND THE BAR.

Early in October, 1855, the clerk of the court received the following notice, which was spread upon the books, as the opening of the records of the district court in and for said county:

"To the Clerk of the District Court of Adair County, Iowa:—

"It appears to the undersigned, district judge of the Sixth judicial district of the state of Iowa, that the interests of Adair county required that a term of the district court should be held in, and for the said county. It is, therefore ordered that a special term of said district court be held, and the same is hereby appointed to be holden in for said county, on the 19th day of November, A. D., 1855.

"And it is further ordered that a grand jury be summoned for said special term; and it is also ordered that a petit jury be summoned; and it is further ordered that the clerk of the district court, aforesaid, issue a venire, directed to the sheriff of said county, for said juries, respectively. Given under my hand and seal, this 13th day of October, A. D., 1855.

"E. H. Sears, District Judge, Sixth Judicial District of Iowa."

In accordance with this notification, the court assembled at the residence of Azariah Root, in what was then Washington township, on the 19th of November, 1855. There were then present—Hon. E. H. Sears, judge; D. M. Valentine, clerk, and Abner Root, sheriff.

The first civil case was that entitled, John Gilson vs. John Stevenson. This was an action for damages, and was continued from this session to the March term, when it was stricken from the records, for reasons not entered therein, by order of the judge. Judge Sears continued on the bench until the Spring of 1859, when he was succeeded by Hon. J. H. Gray, who held the regular terms of court until October 14th, 1865, when he died. The vacancy thus made was filled by the appointment of Hon. C. C. Nourse, by the governor, and on the 9th of April, 1866, he held a regular term of the district court in this county. This was the only one held here by him, as he resigned the office of judge August 1st, 1866. Hon. Hugh W. Maxwell was elected to the office of district judge at the August election, 1866, and was re-elected in 1870, occupying the bench for eight years. He was succeeded by Hon. John Leonard, who was elected in October, 1874, and he held four years. The present judges of the Fifth judicial district, which now includes Adair county, are J. D. Gamble, J. H. Applegate and Edmund Nichols.

The first lawyer in the county of Adair was W. H. Brainard. J. J. Cooper came to Adair county during the

S. B. GWIN.

winter of 1857-8. He was a good lawyer, and came from Kentucky. G. F. Kilburn came about the same time. Waldo Adams was a good reliable attorney. After a few years he removed to Preston.

The attorneys of Adair county are as follows: Atchison & Weeks, C. H. Williamson, Sam D. Woods, Haddock & Haddock, Jno. J. Hetherington, J. G. Culver, Hon. A. L. Hager, D. W. Church, F. M. Brown, H. J. Chapman, Frank B. Wilson, Geo. D. Musmaker, Geo. B. Lynch, F. E. Gates, S. B. Gwin, E. W. Adams, Chas. T. Launder, and L. R. Brown.

BIOGRAPHICAL.

A. L. Hager was born in New York State October 29, 1850. At nine years of age his parents moved to Iowa, settling in Jackson county. The subject of this sketch attended the high school and was graduated at the Law department of the State University at Iowa City in 1875. He then removed to Greenfield, Iowa, and began the practise of his profession. In 1891 he was elected state senator and served two years, when he was elected to congress from the Ninth district. He was re-elected in 1894, and again in 1896, serving six years.

Samuel B. Gwin was born at Brooklyn, Poweshiek county, Iowa, August 21, 1865. He passed his boyhood days on the old homestead one mile west of town. He was educated at Brooklyn, Valparaiso, Ind., Iowa City and Des Moines. He was admitted to practise law before the supreme court at Des Moines, June 7, 1887. He began to practise in Brooklyn, Iowa, and came to Adair January 21, 1895. He has been successful in a number of very important civil and criminal cases and has an extensive and lucrative practise. He is a member of the Knights of Pythias, Odd Fellows and Woodmen of the World.

J. N. Haddock was born in the northern part of Ireland, May 30, 1840. His parents came to the United States and settled at Philadelphia when our subject was

quite young. He came to Iowa, locating in Johnson county, at the close of the Civil War. In 1878 Mr. Haddock removed to Greenfield, Iowa, and here he still resides. He read law with Clark & Haddock at Iowa City, and at the State University. His admission to the bar was in 1875. He is the oldest member of the Adair county bar.

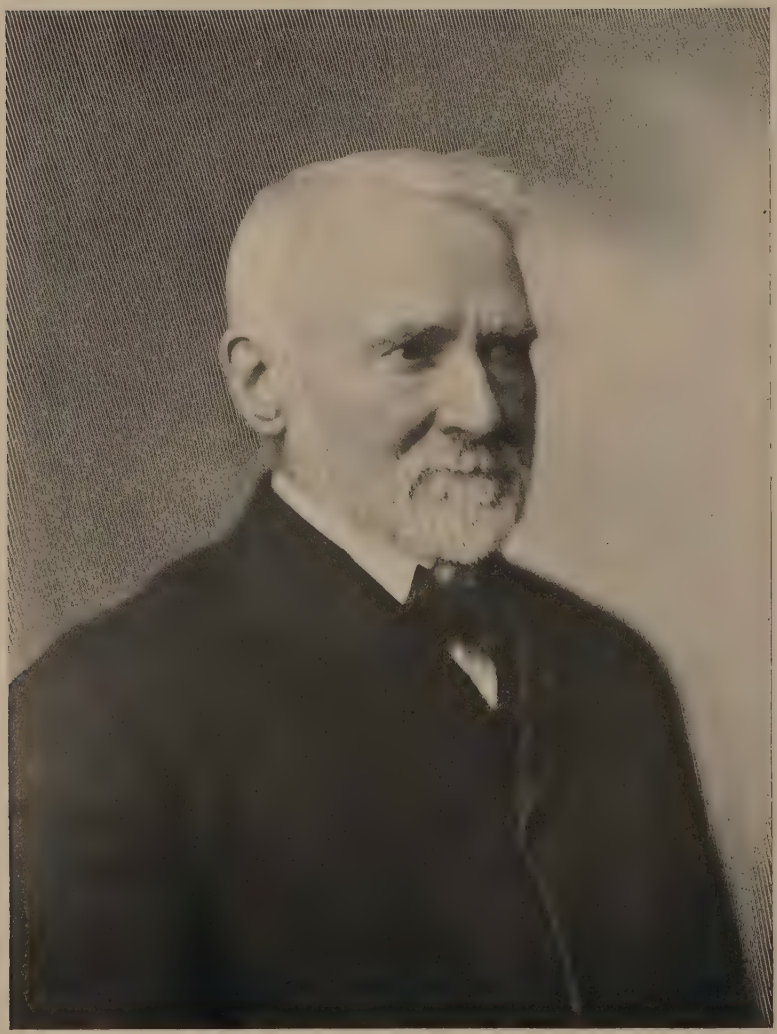
William R. Haddock is a son of J. N. Haddock, was born in Iowa City May 7, 1872, and was admitted to the bar in June, 1895. He was with the firm of McVey & McVey, Des Moines, from 1895 to 1897. He removed to Greenfield and formed a partnership with his father in 1903 under the firm name Haddock & Haddock.

Frank E. Gates was born in Iowa county Sept. 13, 1866. He was admitted to the bar in 1891, and located at Adair, Iowa, September, 1891, and has been continuously in the general practise since. He is a republican and was elected county attorney in 1894 and re-elected in 1896.

ADAMS COUNTY.

HISTORICAL.

The county-seat of Adams county was located on March 12, 1853, by a commission consisting of William Davis, of Mills county, John Buckingham, of Page county, and James B. Campbell, of Taylor county. They located it on government land and named the place Quincy. The first term of court was held in a log house on the northwest quarter section 24, township 72, range 35, about three miles southwest of Quincy, on September 6, 1853. At the election held that year Samuel Barker was elected county judge. In 1872 the county-seat was moved to Corning. The members of the Adams county bar are as follows: Davis & Wells, Maxwell & Maxwell, D. H. Meyerhoff, Stanley & Stanley, F. C. Okey, J. W. Bixby, Brown & Boylen, M. E. Wilmarth, W. S. Hefling, W. C. Chubb and B. J. Gibson.



F. M. DAVIS.

BIOGRAPHICAL.

Francis M. Davis was born August 13, 1831, at Dublin, Franklin county, Ohio. He is the son of the late Joseph Davis and Edith Amanda (DeFord) Davis. His mother was the daughter of Count Emil DeFord, who fought under Montcalm at Quebec, being a French soldier. He came to the United States and settled at Dover, Delaware. The subject of our sketch passed his boyhood days in Perry township, Franklin county, Ohio. His early education was acquired in the common district school in Perry township until the age of thirteen years; then he attended a select school at Dublin. He afterward entered Blendon College, now Otterbein University, completing his education at the Delaware, Ohio, Wesleyan University, where he graduated in the scientific course in 1851. He then entered the office of William Dennison, governor of Ohio, where he read law; he afterwards read law with Henry B. Carrington during the years 1853-54-55. He passed his examination before the district court of Ohio in May, 1855, at Xenia, Ohio, and was admitted to the bar. He was admitted to the supreme court of Ohio at Columbus in 1855, and to the Iowa supreme court in June, 1857, and to the supreme court of the United States in October, 1874. He moved to Quincy, Adams county, Iowa, in July, 1855, where he opened an office in August, 1855. The first court was held by Judge E. H. Sears, who lived at Sidney, Fremont county, and held court in the Third district, comprising thirteen southwest Iowa counties. The first term of court had thirty-seven cases on the docket. Mr. Davis was appointed county attorney and deputy county surveyor. The surveying business was very good. While surveying he used to hunt wild game, in which the surrounding country abounded. He has kept up a busy life, often riding horseback all night to attend court in adjoining counties. He was mustered

in as captain of Company D, Twenty-ninth Iowa Infantry, December 1, 1862, serving till injured in the spring of 1864, at Fort Pemberton, near Greenwood, Mississippi, during the Vicksburg campaign. He was discharged in 1864 on account of his disability, from which he was laid up until 1867. He is a member of G. A. R. and has been commander of Lewellyn post for the last ten years. He is a blue lodge Mason. He was a member of Fourteenth general assembly; he is a republican, but has never been active in politics. He was married in 1857 to Julia Clarke, of Adams county, Iowa, who died in 1881. Afterwards he was married to Sarah Brown of Adams county, Iowa, in 1883. Mr. Davis is still in active practice at Corning, Iowa.

Immediately after settlement in the new county of Adams he organized a branch of the American Bible Society, of which he was secretary. He is still an active member and a large contributor to said society. He has also been an active member of the Methodist church from 1857 to 1876 when his membership was transferred to the Congregational church, in which he is still an active member, and he largely contributes to sustain the same up to the present time.

He was ranking captain of the regiment and as such had command of the charging column which he led at The Fort, capturing the first prisoners of the expedition, himself being severely injured.

Has been in active practice for 52 years and in the Supreme court for fifty years, during all which time he bears testimony to the statesmanship, integrity and distinguished judicial ability of the judges of said court, who without distinguishment of name or length of service have each and all rendered to the state the very highest and most honorable service and left amongst the archives of the court one hundred and thirty-five volumes of judicial decisions which for learning, patriotism and painstak-

ing industry are not excelled as a body of municipal law, in integrity and equitable jurisprudence in any sovereign state of this enlightened government. Not a tint of dishonor or glimmer of stain has at any time been insinuated, while such shining lights as Mason, Greene, Kinney, Isbell, Stockton, Wright, Dillon, Cole, Beck and others have obtained national distinction; and said court is still maintained in its high standing to the honor of the judges, the state, and pride of its people.

The Fourteenth general assembly convened in 1872 on the very crest of the huge wave of incipient public graft and commercial combinations, schemes for the development of gigantic financial trusts and banking and improvement corporations, wherein vast sums of capital, capital stocks and credits were controlled by capitalists schooled in the handling of vast aggregations of paper credits bolstered up by seizing portions of the sovereign powers of the state by craftily drawn articles of incorporations which conferred upon the grantees extraordinary powers to the detriment of freedom and equal rights of the people. The public treasury was decidedly unsafe and the equal rights of the public citizens everywhere transgressed. By good providence a strong body of statesmen were elected to that general assembly which codified all the state's laws in the Code of 1873. The public rates and taxes were carefully adjusted and protective walls erected around all public funds, which are still the bulwark of the state's credit. A carefully drawn hedge was inserted in the laws regulating corporations for pecuniary profit and all trading incorporations whereby all grafting was effectually abolished and such cormorants upon the public rights were forever reduced to subservience to legislative control and the doctrine of unchangeable vested rights of incorporations in the clandestinely assumed powers of speculators claiming extraordinary endowments for wrong and extortion was forever abolished, thereby enabling the state to curb pub-

lic wrongs and protect the progress of the people in free development and equal rights.

Horace W. Towner was born in Belvidere, Ill., October 23, 1855. He is the son of John L. and K. B. (Brownell) Towner. His father was from New York State and his mother from Massachusetts. He spent his boyhood in Belvidere, and was educated in the common and high schools and the Chicago University. He read law and was admitted at Corning, Iowa, in 1879, and immediately entered upon the practise of his profession at Corning, where he has since remained. He formed a partnership with W. B. Anderson, which continued for eight years. Then he was associated with Mr. Riddle one year, and for two years he was in partnership with Judge Lucas. In 1890 Mr. Towner was elected district judge. He has since been re-elected and is still serving. The last time he was renominated and re-elected without opposition. Judge Towner is a Mason, Knight Templar and Knight of Pythias. He is a lecturer on constitutional law at the State University of Iowa and is president of the Iowa State Bar Association. Judge Towner was married October 25, 1886, to Harriet C. Cole, of Corning, Iowa.

Arthur L. Wells was born in Madison county, New York State, November 7, 1837. His father was Anson E. Wells, and his mother before her marriage was Miss Caroline Young. He was graduated from the Hillsdale College, Michigan, A. B., 1866. He read law at the Albany Law School, same class as President McKinley, graduating in 1867. That year he removed to Iowa, and was admitted at Quincy, Adams county, Iowa. He practised his profession at Quincy and Corning in Adams county, until his death in 1901. He was in partnership with F. M. Davis, as Davis & Wells, from 1874 to 1901. In politics he was a republican, and served as county recorder for about three years, from 1868 to 1871. From 1871 to 1874 he was treasurer of Adams county. He was

A. R. WELLS.

associated with many important cases. The so-called Swamp Land cases entitled "Adams County v. B. & M. R. R. Co." was one of them.

Arthur R. Wells was born in Corning, Adams county, Iowa, December 1, 1873, and is a son of Arthur L. and Lucina (Regester) Wells. He passed his boyhood days in his native town. He graduated from Princeton University, A. B., 1895. He read law in the office of Davis & Wells, Corning, Iowa, and the State University of Iowa, and was admitted before the supreme court of Iowa May 13, 1896. He has practised law at Corning, Iowa, since his admission as a member of the firm of Davis & Wells. He belongs to the Masons, Knights Templar and Mystic Shrine. He was appointed a member of the State Board of Law Examiners in 1906. He was married to Miss Helen Wilson April 28, 1897.

ALLAMAKEE COUNTY.

HISTORICAL.

Allamakee county was organized by legislative act in 1849. The county-seat was first located at Columbus, where it remained until 1853, when it was re-located at Waukon. In 1861 it was removed by vote of the people to Lansing, the citizens of that town erecting a stone court house and donating it to the county. The county-seat remained at Lansing until September, 1867, when it was again re-located at Waukon, and where it still remains. The first election of county officials was in 1849, when officers were elected as follows: James W. Sumner and Joseph W. Holmes, county commissioners, Elias Topliff, treasurer and recorder, Stephen Holcomb, county clerk, John W. Remine, county attorney, and L. W. Hays, sheriff. Two years later, in 1851, Elias Topliff was elected county judge, being the first in that county to hold that office. The first court was held at Columbus, July, 1852, by Judge Thomas S. Wilson.

The first term in Waukon was set for Monday, June 6, 1853; but we find from the record that "The presiding judge in order to give time for the preparation of a suitable place at Waukon, the newly selected county seat, by written order, directed the court to be adjourned till tomorrow." June 7 there was no business and the court was again adjourned one day. Much delay in the business of the court was occasioned by the fact of jurors and witnesses having been summoned to appear at Columbus. In 1851 a county court was created. The act creating this court gave the county judge jurisdiction of probate affairs, and clothed him with all the powers previously exercised by the Board of County Commissioners. In short, it legislated the commissioners out of existence. County judges were Elias Topliff, 1851 to 1857; Geo. M. Dean, 1857-59; John A. Townsend, 1859-61; O. S. Conkey, 1861-67; M. B. Hendrick, 1867 to 1868, when the office of county judge was discontinued and Judge Hendrick became ex-officio Auditor until the close of his term, December 31, 1869. The Second Judicial District of the State of Iowa after Allamakee was added in 1847, comprised the counties of Buchanan, Clayton, Clinton, Delaware, Dubuque, Fayette, Jackson, Jones, Muscatine, Scott and Winneshiek. Judge James Grant, commissioned November 15, 1847, to May 8, 1852, when Judge Thomas S. Wilson qualified, who remained judge of this district till after Allamakee was withdrawn to help form the Tenth Judicial District, created in 1855, comprised Allamakee, Cerro Gordo, Chickasaw, Clayton, Fayette, Floyd, Howard, Mitchell, Winneshiek and Worth. Judge Samuel Murdock, of Clayton county, 1855 to 1858. With the exception of Cerro Gordo and Worth and the addition of Bremer and Butler, this territory became the Tenth Judicial District. In 1858 Elias H. Williams of Clayton county was elected judge, and served until Milo McGlathery of Fayette county was elected in 1866 and

served from 1867 to 1874 inclusive. Judge Reuben Noble served from 1875 to November, 1879, when he resigned and the governor appointed in his stead Ezekiel E. Cooley, who was elected at the general election in 1880. The Thirteenth Judicial District comprises the counties of Allamakee, Chickasaw, Clayton, Fayette, Howard and Winneshiek and the judges are L. E. Fellows, A. N. Hobson, H. B. Crosby and W. W. Comstock.

BIOGRAPHICAL.

Charles T. Granger was born in New York State October 9, 1835. When he was but a child his parents moved west, locating at Waukegan, Ill. Here he received his education. He worked on his father's farm, read law and was admitted. In 1854 he came to Iowa, locating in Allamakee county, teaching school winters. In 1860 he began to practice law at Mitchell, Iowa. In 1862 he entered the army and was made captain of Company K, Twenty-seventh Iowa Volunteer Infantry, and served three years. On his return from the war he located at Waukon, Iowa. In 1869 he was elected district attorney, serving four years. In 1873 he was elected judge of the circuit court, which office he held until 1887, when he was chosen district judge, serving until January, 1889. He was elevated to the supreme bench and was chief justice in 1894-1895 and associate judge until January, 1901. Judge Granger has voted the republican ticket since the organization of that party.

Liberty E. Fellows has been elected four times judge of the Thirteenth Judicial district. The last time was at the November election, 1906. The democrats in 1865 elected him to the house of representatives of the Eleventh general assembly. After serving his term in the house he was elected to the senate, serving in the Twelfth and Thirtenth general assemblies. Judge Fellows was appointed in 1889 judge of the Twelfth district to fill a

vacancy. For ten or twelve years he was a member of the board of trustees of the Hospital for Insane at Mt. Pleasant and for a number of years regent of the State University. For two years he was Grand Master of the Masonic Grand Lodge of Iowa. He was a democrat up to 1883, but now belongs to the republican party. Judge Fellows was born in Vermont August 22nd, 1834, and removed to Iowa, locating on a farm near Lansing in 1857. He was admitted in 1862, and at once began the practise of his profession. His home is Lansing, Iowa.

The members of the Allamakee County Bar at this time are the following: W. W. Bulman, Henry Dayton, J. F. Dayton, H. L. Dayton, D. Deremore, Wm. S. Hart, Bert Hendrick, M. B. Hendrick, D. J. Murphy, A. M. May, J. E. O'Brien, H. H. Stilwell, C. S. Stilwell, C. M. Stowe, H. E. Taylor, F. S. Burling, P. C. Church, Wm. Shepperd, W. C. McNeil, J. P. Conway, Frank May.

APPANOOSE COUNTY.

HISTORICAL.

By an act of the territorial legislature approved February 17, 1843, the boundary lines of Appanoose county were declared, but the county remained attached to or a part of Davis county for election, revenue and judicial purposes, until, by an act of the territorial legislature, approved January 13, 1846, it was organized into a separate county. The name of the county was given by the first act of the territorial legislature. The first court held in Appanoose county was presided over by Judge Cyrus Olney, judge of the Third judicial district, September, 1847. The first clerk of the court was J. F. Stratton by appointment of Judge Charles Mason.

For judicial purposes Appanoose county was originally in the First judicial district, and afterwards in the Third judicial district, until 1849, when it was placed in the Fifth district. In 1853 it was made a part of the Ninth

district. In 1858 it was placed in the Second district, where it has remained ever since.

No judicial district in Iowa has ever had abler judges or men of higher integrity, than the judges on the bench in the Second judicial district since its organization in 1858. No suspicion of a lack of judicial honesty, or integrity has ever been cast upon either of them.

Under the territorial organization as well as under the State organization up to 1851, we had the probate court, but after that the county court system until 1870, when that court was abolished.

Benjamin Spooner was the first probate judge in Appanoose county, and his first order made was the appointment of an administrator.

The first case docketed in the district court was a criminal case against Geo. Braffit, charged with larceny. Defendant ran away and his bond was forfeited. In the first law case, the plaintiff recovered judgment for thirty-two cents. The first equity case was an action for a divorce.

There being no courthouse, the court was held in a little store room owned by one Wadlington, and the grand and petit juries deliberated in Jim Hough's little blacksmith shop, except when the court adjourned to the blacksmith shop, and then the juries went out to a clear place in the hazel brush near by to deliberate. When the court was held in the little store the judge sat on the counter and the clerk's table was a barrel, and when held in the blacksmith shop the judge sat on the anvil and the clerk's desk was the bellows. It was said this made the judge hardhearted and the clerk a "loud fellow" or a "blow."

It is a noteworthy fact that the bar of Appanoose county has always been one of the ablest in the state, and so recognized since the early days of its history.

The lawyers who attended the first court were J. C. Knapp, afterwards Judge Knapp, and Augustus Hall of

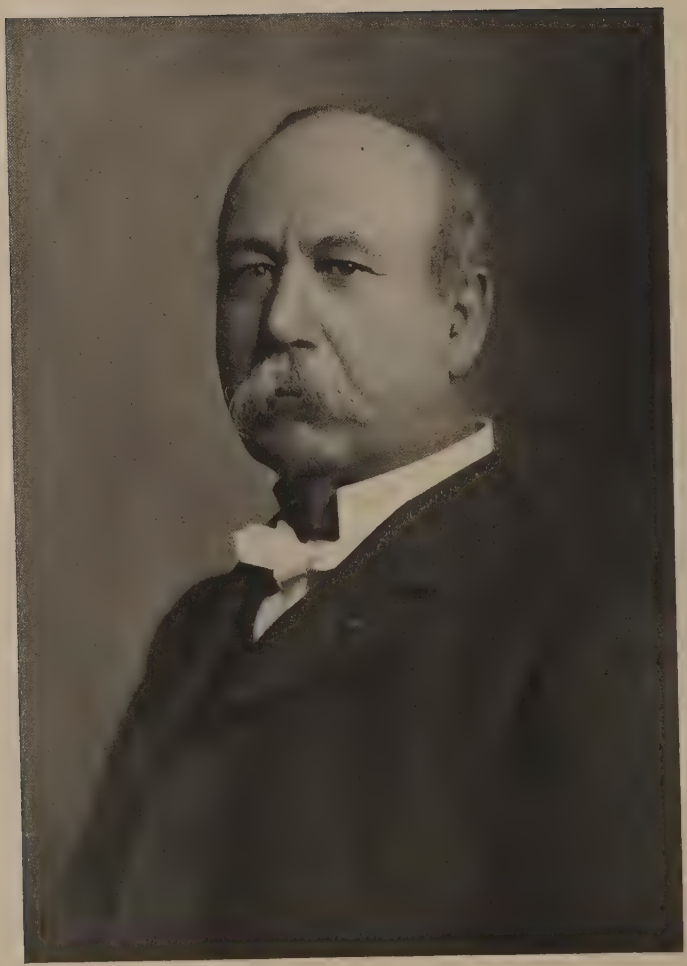
Keosauqua, S. W. Summers of Ottumwa, and Samuel McArchon of Bloomfield, and Powers Ritchie.

The first courthouse was built in the fall and winter of 1847, of logs, and cost, when completed, $160. This was the home of the district court until 1860, when it was voted by the people to build a new courthouse to cost $15,000. That courthouse was occupied by the district court from 1862 until the house was condemned, years ago. Then the court was held from house to house until 1894, in which year a magnificent courthouse, costing $100,000, was completed, and is now one of the finest and most comfortable buildings in Iowa in which to transact the legal business of a wealthy and populous county.

BIOGRAPHICAL.

Amos Harris was the first attorney permanently located in Appanoose county. He was born in Madison county, Ohio, in 1822. He studied law in Ohio, and came to Centerville in 1847. He was elected prosecuting attorney, as the office was then called, in 1849, and re-elected in 1851. In 1852 he was elected representative to the legislature from this county. In 1854 he was elected county judge. In 1855 he was elected a delegate to the constitutional convention which met in Iowa City January 19, 1857, and took an active part in the convention, displaying that activity and legal ability that afterward marked his career as an attorney. In 1858 he was elected district attorney for the Second judicial district of Iowa. He was a very able lawyer, and filled the office of district attorney with fidelity, and to the satisfaction of his constituents. In 1875 he removed to Wichita, Kansas, where some years after he died, leaving a widow and three sons.

Harvey Tannehill was born in Urbana, Ohio, September 5, 1822. His father was a native of Virginia and his mother of Kentucky. His parents were farmers and of limited circumstances. In his youth he had no advantages



T. M. FEE.

of school, his services being required on the farm, but after reaching the age of twenty, having always had a desire for an education, he attended three years the high school at Springfield, Ohio. From 1845 to 1848 he taught school, and during that time acquired a good education and a cultivated mind. After that time he read law with Charles Morris of Troy, Ohio. In August, 1851, he came to Centerville, and in September following was admitted to the bar in Appanoose county. In 1853 he was elected prosecuting attorney of Appanoose county. In 1855 he was elected county judge of the county, and served two terms. In 1866 he was elected judge of the Second judicial district and served one term.

Judge Tannehill was one of the ablest lawyers in Iowa and a model judge. He was a most industrious, painstaking and conscientious lawyer and absolutely pure as a judge. His reputation as an honorable and honest lawyer was not confined to this county, but extended wherever he was known. He was a most genial gentleman when in company of his intimate friends, but rather cold and reserved in his demeanor generally, which caused him to be misunderstood by some, and considered selfish, but no man doubted his integrity. He was a strong lawyer with the court. When he retired from the bench he formed a partnership with T. M. Fee, which continued for sixteen years, or until January, 1886. Some time after he retired from the firm of Tannehill & Fee he formed a partnership with W. F. Vermilion, but soon thereafter Tannehill moved to Eureka Springs, Ark., where he died about the year 1900.

Thomas M. Fee was born in Ohio, April 18, 1839. His parents were Thomas J. and Sarah (Hastings) Fee. Thomas J., his father, laid out the town of Feesburg, in Brown county, six miles from Felicity in Clermont county, and six miles from Georgetown, the county-seat of Brown county. This was only a few miles from the Grant tan-

yard, where Gen. U. S. Grant learned his trade, Georgetown being for some years the home of Gen. Grant. His father was of English and Welsh descent, and his mother or Irish descent, although both were born in Clermont county, Ohio.

Young Fee removed with his parents from Ohio to Perry, in Pike county, Illinois, in 1848, where he received a good common school education and finished his studies in the academy of that place, then a prominent educational institution. In 1858, being then nineteen years old, Fee left the parental home and started in life for himself, with but little money and among strangers. The first place he stopped after leaving his father's house was Lancaster, Mo. Soon he secured a school in Adair county and taught one term, not yet being twenty years old. In the spring of 1859 he went to Ottumwa, Ia., and began the study of law in the office of S. W. Summers, then one of the most prominent lawyers in Iowa. He read law until his money ran out, which was very soon, and then secured the place as principal of the Ottumwa schools, which place he held until March, 1862, when, having finished his course of law studies, which he kept up while teaching, he was admitted to the bar. In May, 1862, he went to Centerville and formed a partnership with Joshua Miller, an old and successful lawyer, but the cry of war ran through the land and young Fee put aside his books and surrendered for the time his ambition to rise in his profession, and on August 8, 1862, enlisted as a private in Company G, Thirty-sixth Iowa Infantry Volunteers. The regiment went into rendezvous at Keokuk, Iowa. The gentleman who had been captain of the company up to the time it, with the regiment, was mustered into the United States service, having found soldiering not agreeable to him, declined to be mustered in. The company being without a captain, an unusual thing was done, to muster a soldier over his superiors in office, but Fee was

promoted to be captain of his company, and commissioned captain by Governor Stone, then governor of Iowa. He served with his regiment until the close of the war, and was mustered out in the fall of 1865. He, with his regiment, was captured by the confederates, and confined in a rebel prison for ten long months. He escaped from prison once, but, after hiding in the woods, wading creeks, rivers, swamps and lakes, and hiding and escaping from the bloodhounds, he was, after weeks, captured and returned to prison. After returning to his regiment from the rebel prison, he was detailed as assistant inspector-general of the Trans-Mississippi department on Gen. J. J. Reynolds' staff, and inspector-general of the Seventh army corps, on the staff of Gen. Shaler, commanding.

On his return home from the war to Centerville, where he has lived ever since, he devoted all of his energy to regain in the law what he lost therefrom in the army. In 1871 he formed a partnership with Judge Harvey Tannehill, who had just retired from the bench as judge of the district court. This partnership lasted for sixteen years. In 1866 Captain Fee was elected superintendent of schools in Appanoose county.

In 1874 he was elected district attorney, and went into office in January, 1875. Judge J. C. Knapp was elected judge at the same time, but Knapp was a democrat and Fee a republican, the republican candidate for judge being defeated by Knapp. Captain Fee defeated J. C. Mitchell, afterwards one of the judges of the district court. So well did he fill this office that his party, at the next judicial convention nominated him as its candidate for judge, but his party being in a hopeless minority, he was defeated.

In 1894 he was elected judge of the district court for the Second judicial district, and in 1898 was again nominated and elected to the same office. At the end of the third year of his second term as judge, he resigned his

office and re-entered the active practice of the law, with his son Thomas Grant Fee, under the firm name of Fee & Fee. He is a member of the Masonic order, the Knights Templar, the Mystic Shrine, the Elks, the Grand Army of the Republic, the Loyal Legion, and a working member of the M. E. church. In politics he is a republican. He has five children, and Mrs. Fee is a graduate of Waynesburgh College, Pa.

Andrew J. Baker was born in Marshall county, now West Va., June 6, 1832. After leaving the common school of his state he entered the Iowa Wesleyan University at Mt. Pleasant, Iowa, where he took a special course. He taught school four years, and read law in the office of C. Ben Darwin of Burlington, Ia. He was admitted to the bar in August, 1855, at Winterset, Ia., when he entered on the practice of the law there. In 1861 he enlisted as a private in Company E, Seventeenth Iowa Volunteer Infantry, and was elected first lieutenant. He was with his regiment until January, 1863, when he resigned on account of disability.

After leaving the army he went to Lancaster, Mo., and entered again the practice of the law. So successful was he that in January, 1867, he was elected county attorney. In 1868 he was nominated an elector on the Grant & Wilson ticket for the Eighth congressional district of Missouri. At the election in 1868 he was elected to the Missouri house of representatives. In 1870 he was elected attorney general of the state of Missouri. In March, 1875, Gen. Baker returned to Iowa and formed a partnership for the practice of the law, at Centerville, with Gen. F. M. Drake, later governor of Iowa, under the firm name of Baker & Drake.

At the republican state convention in 1884 he was nominated for attorney general of Iowa, and elected that fall, and was re-elected to the same office in 1886.

In 1891 Gen. Baker retired from the active practice,

and became president and counsel of a loan company of Des Moines, where he then lived. In 1892 he sold his interest in the loan company, and soon removed again to Centerville, where he has lived and practiced law ever since.

His career as the attorney general of two states is unusual, and illustrates his capacity as a lawyer. In both states he filled the office with credit to himself and satisfaction to both states.

Gen. Baker is prominent in the circles of the I. O. O. F., and was Past Grand Master of that order and also a member of the Knights of Pythias. He is now in partnership with his son Clarence A. Baker, under the firm name of Baker & Baker.

L. C. Mechem is another lawyer of prominence among the older members of the bar. He was born in Belmont county, Ohio, in 1843. In September, 1861, young Mechem enlisted in Company K, Fifteenth Ohio Volunteer Infantry, and served until the summer of 1863, when he was honorably discharged for disability, but soon reenlisted and served until the close of the war. He studied law with Judge Cowan, one of Ohio's great lawyers, at St. Clairsville, and was admitted to the bar in 1866. The same year he came to Centerville and began the practice of law, where he has lived ever since, enjoying a remunerative practice, and the high confidence and esteem of the citizens of the county.

He has been active in politics, as a republican, and for four years was the Eighth district member of the republican state central committee. He is a member of the G. A. R., and elder in the Christian church.

W. F. Vermilion was another member of the Appanoose county bar. He was born in Kentucky in the year 1830. He read medicine, and came to Iowa and located at Iconium in this county, and rose to distinction in the profession of medicine and surgery, which he followed

until the summer of 1862, when he raised a company for the war, and on October 4th he was mustered into the United States service as captain of Company F, Thirty-sixth Iowa Volunteer Infantry. He served with his regiment until the close of the war, and was mustered out of the army in the fall of 1865. He read law with the law firm of Miller & Fee, and was admitted to the bar in 1868. He at once took high rank as a lawyer. There were but few better lawyers in Iowa than was Capt. Vermilion, and none more honorable than he. He was elected to, and served one term, in the Iowa senate, in which he was regarded one of the ablest members. He and Judge Fee were pitted against each other for years in all the important cases in the county. He was also for some years a partner with Judge Tannehill, under the firm name of Tannehill & Vermilion. He died December 28th, 1894. He was the father of C. W. Vermilion, now one of the judges of the district court in the Second judicial district.

Charles W. Vermilion is now one of the judges on the bench in the Second judicial district. He is a son of Capt. W. F. Vermilion, and was born in Centerville, Iowa, on the 6th day of November, 1866. He graduated from the Centerville high school, and then went to De Pauw University in the state of Indiana, his father's native state. In 1889 he graduated from the law department of the University of Michigan at Ann Arbor. In October, 1889, he began the practice of the law at Centerville with his father, and continued with his father until the latter's death, December 28th, 1894. He was county attorney for two terms. His character and standing as man and lawyer were such that when Judge Fee resigned the office of district judge in 1901, Governor Shaw appointed Mr. Vermilion to fill the vacancy, and he took the office the first day of January, 1902. He was nominated by the republican party in 1902 for that office, and elected the same

year. In 1905 he was again nominated and elected judge of the district court of that district. Judge Vermilion was perhaps the youngest judge in Iowa at the date of his appointment. He is a member of the Centerville Commercial Club and of the Order of Elks. In 1897 he married Miss Clare Eloise Biddle, and has one child.

Claude R. Porter is among the younger members of the Appanoose county bar. He is a native of this county, born at Moulton July 8, 1872. He is the son of George D. and Hannah (Rodman) Porter. George D. Porter was a prominent lawyer of this county, locating at Moulton in 1870, where he practiced for some time, but afterwards removed to Centerville. He died in February, 1899. Claude R., the son, after graduating from the high school at Centerville, spent one year in Parsons College at Fairfield. He read law in his father's office for a while, then attended the St. Louis Law School for one year. He was admitted to the bar in October, 1893, and located at Centerville, and at once entered on the practice of the law with his father, and so continued until the death of the latter. He was elected to the house of representatives from this county in 1895, and re-elected in 1897. In 1899 he was elected senator from this district, composed of Davis and Appanoose counties. He has always been a democrat and spent much time in laboring for his party. In 1899 he was nominated for the office of secretary of state, but was defeated at the election of that year, by Dobson. He was elected county attorney in 1902, and renominated in 1904, but was defeated at the election by T. G. Fee. In 1906 he was nominated by the democratic party for governor, against A. B. Cummins. He made a splendid race, and his party had great hopes of his success, but at the election he was defeated by Gov. Cummins, but he carried his home county by a large majority. It is stated that all the standpatters in the "Reservation" voted for him. As a member of the legislature he served

with distinction, and as county attorney he discharged the duty of the office with ability and fidelity. Mr. Porter always has been, and is now, a guiding and controlling member of the democrat party in Iowa. He belongs to the Presbyterian church, the order of Elks and the Masonic order. He is married and has one child.

Thomas Grant Fee is the son of Judge T. M. Fee. He was born August 25th, 1877, and therefore belongs to the later branch of the profession. He is an active republican, and one of the leaders, in the county and Southern Iowa, of the younger and progressive republicans. He graduated from the high school in Centerville, and then took one year's course in the collegiate department of the State University, at Iowa City. The next year he entered the law department of the State University, in the spring of 1899. By his graduation he was admitted to practice in the state and federal courts. While a student in the law school at Iowa City, when the governor designated the Fiftieth Iowa National Guards to take part in the Spanish war in 1898, young Fee left the school and his law studies and went to Centerville and enlisted in Company E of that regiment, and was mustered into the United States military service, and immediately was sent with his regiment to Jacksonville, Fla. After returning home he resumed his law studies at Iowa City and graduated as before stated. On his graduation he opened a law office at Centerville. On the retirement of his father, Judge Fee, from the bench in 1901, he formed a partnership with his father under the firm name of Fee & Fee.

In 1904 Thomas G. Fee was nominated by the republicans of Appanoose county for the office of county attorney to run against the then occupant of that office, Hon. Claud R. Porter. It was a big undertaking, as Mr. Porter had never been defeated in the county, but at the election young Mr. Fee was elected by the large majority of 850. In 1906 he was re-nominated and elected over his

opponent by an increased majority of about 1,200, leading his ticket in the county. He has been most successful in his office, and the satisfaction he has given the people, and his popularity, are evidenced by the vote he has received. He is a member of the M. E. church, the Masonic order, the order of Elks and the Knights of Pythias. He is married and has one child.

J. M. Wilson was born at Monmouth, Ill., September 8, 1866. His father and mother were both Scots of that high and sturdy class so common in this country, and their son James M. is of the same class. He graduated from the Centerville high school, and then spent two years at Monmouth College in Illinois. He studied law under the Hon. T. M. Fee, and was admitted to the bar in 1895, but afterwards entered the law department of the Iowa State University and graduated from that school, as president of a class of one hundred and three members, and has since practiced law in Centerville with most creditable success. He was elected county attorney in 1896, and re-elected in 1898. He is an active republican.

Frank S. Payne is another member of the bar of Appanoose county. He was born in Henry county, Iowa, August 16, 1869, of very honorable parents. He grew up a farmer boy. He entered as a student in the Iowa Wesleyan University at Mt. Pleasant, and graduated from that college in 1892. He then chose the profession of the law, and entered upon his studies in the Northwestern University law school at Evanston, Illinois, and graduated in 1894, coming to Centerville the same year, and entering on the practice of law, where he has continued ever since. In the fall of 1899 he was elected on the republican ticket to the lower house of the legislature and re-elected in 1901. His father before him had been a member of that house.

He is now the president and general counsel of the

Centerville Light and Traction Co., of Centerville, which owns and operates the electric light and gas plant and street cars. He is a member of the Presbyterian church, is married but has no children.

H. E. Valentine, a graduate of De Pauw University, in the state of Indiana, is another member of the Appanoose county bar. He and Judge Vermilion were students in the university at the same time, and when Mr. Valentine came to Centerville they formed a partnership under the firm name of Vermilion & Valentine, and it so remained until Judge Vermilion was elected to the bench. He was mayor of Centerville, but resigned to enlist for the Spanish American War. On his return he re-engaged in the practice of law.

C. S. Wyckoff, another native of Appanoose county, is also a worthy member of this bar, and is also a worthy son of his father, Capt. G. W. Wyckoff, who was for several terms a member of the Iowa legislature. His standing at home can be known by the fact of his election to the office of mayor of the city over a popular opponent. He is a graduate of the law school of the State University, and was admitted to the bar about ten years ago.

W. H. Sanders is a member of the Appanoose county bar. He came to this county some ten years ago. He was born in Lucas county, Iowa. In politics he is a democrat. He was mayor of the city for one term.

R. W. Smith is the youngest member of the Appanoose county bar, born in Wayne county, Iowa, and graduated from the Centerville high school. He read law under Judge Fee, and was admitted to the bar by the supreme court in 1900. He is now the Junior member of the firm of Smith & Wilson.

THE MOULTON BAR.

Moulton is a town in Appanoose county sixteen miles northeast of Centerville. There are three representatives

of the Appanoose county bar at that place, all young men of promise. They have lived there all their professional lives.

H. P. Powers, the oldest one of the three, was born in Centerville. He graduated from the high school and then entered Drake University and was admitted to the bar by the supreme court.

W. F. Garrett is a native of Davis county, a son of Dr. Garrett, a well known physician of that county. He is a graduate of the law school of the Iowa State University.

J. R. Barkley is the other lawyer of Moulton. He is a self-made man. He was born in Davis county in 1869. After his common school education he attended the Southern Iowa Academy at Bloomfield, then taught school six terms until he got money enough to go to the Drake University law school at Des Moines. He graduated from that law school in 1894, and in December of that year began the practice in Moulton. He is an active working and honored member of the M. E. church.

Henry Clay Dean was connected more or less with the courts and bar of Appanoose county up to the time of his death, although never enrolled as a local member thereof. Mr. Dean lived for many years south of Centerville just across the Missouri line on a farm, which he called "Rebel's Cove." He was never regarded here as much of a lawyer, beyond his great oratorical ability. He was employed not so much for his legal attainments as for his influence on the jury by his unequaled ability as an orator.

AUDUBON COUNTY.

HISTORICAL.

The county was organized under an order by the judge of Cass county following a petition by the citizens of Audubon county. The first election was on April 6, 1855, and was held in the cabin of John J. Jenkins, at Big Grove,

forty-five votes being cast. The officers elected were T. J. Lewis, judge, John W. Beers, clerk, Miles Beers, treasurer and recorder, Benj. M. Hyatt, sheriff, David Atkins, county attorney, John W. Beers surveyor, and Wm. H. H. Bowen, assessor. On May 22, 1855, Judge E. H. Sears appointed the following commissioners to locate the county-seat, to wit: T. N. Johnson of Adair county, T. Bryan of Guthrie county, and C. E. Woodard of Cass county. Two of them, Bryan and Woodard, qualified, and on June 20th reported their selection of the east half of the northwest quarter of section 22, township 38, range 35. The tract was surveyed, laid out into lots and called Dayton. A public sale of lots was advertised to take place on November 22, 1855, D. M. Harris being county judge. At this sale only one lot was sold, and that brought fifty cents, J. L. Frost being the purchaser. Judge Harris then adjourned the sale until June 3, 1856, at which time eighty-five lots were sold at prices ranging from $1.50 to $9.00 each. This was the last county business ever transacted at Dayton, and the town site became and remained a blank so far as occupancy was concerned. In March, 1856, a petition was presented to the county judge asking that an election be called to vote on the question of removing the county-seat from Dayton to a place called Viola, now Exira. The petition was granted, and the election was held April 7th, but the removal proposition was defeated. The proposition was again submitted in April, 1861, and this time it carried. In October, 1872, the county-seat was removed to Audubon.

THE BAR.

The attorneys of Audubon county are as follows: Judge W. R. Green, Chas. Bagley, H. F. Andrews, W. C. Elliott, V. E. Horton, T. M. Rasmussen, J. A. Nash, B. S. Phelps, W. R. Copeland, J. M. Graham, Casson & Ross, H. J. Mantz, John Griggs, T. F. Myers and F. H. Blume.

BIOGRAPHICAL.

William Raymond Green, the subject of this sketch, judge of the Fifteenth judicial district, was born in Colchester, Connecticut, November 7, 1856. He was educated at the high school of Princeton, Illinois, after which he attended four years at Oberlin College, Oberlin, Ohio, where he graduated in the classical course in 1879. He read law in the office of McCoy & Pratt, Chicago, and was admitted at Ottawa, Illinois, in 1882. He began the practice of law at Dodge City, Iowa, where he remained two years and a half, thence removing to Council Bluffs. In the fall of 1886 he located in Audubon, Iowa, and formed a partnership with J. S. Nash and B. A. Phelps, under the firm name of Nash, Phelps and Green. His partners had carried on a law, real estate and loan business, and upon his entrance into the firm Mr. Green took full charge of the law department. In 1884 he was nominated and elected judge of the Fifteenth judicial district, and has remained on the bench ever since, having been re-elected four times. He presided at the first trial of the famous Doyle Burns million dollar suit, over stock of the Portland mine, and the almost equally celebrated criminal case of the trial of Denison. Judge Green is a member of the Knights of Pythias and of the republican party.

Charles Bagley was born in West Liberty, Iowa, May 29, 1854. He spent his boyhood in Muscatine county, Iowa, and removed from Wilton Junction to Atlantic, Cass county, Iowa, in 1873. He moved to Audubon in 1882, and has since resided there. He was educated in the district schools of Muscatine county, and at the private school of J. B. Harris, Wilton Junction, and after that in the State University, taking an irregular course for one year, and then completing the law course at same institution at Iowa City, Iowa. He was admitted at Iowa City in 1881. His law business is principally office work in connection with real estate and probate work. He has

been mayor of Audubon two terms and is a republican in his political views.

John A. Nash was born in Des Moines, Iowa, May 9, 1854. He attended the public schools of his native city, and in 1874 was graduated from the Des Moines College, and two years later received his diploma from the law department of Simpson College, Des Moines, and was admitted before the supreme court at that city. For over twenty years Mr. Nash has been local attorney for the Chicago, Rock Island & Pacific Ry. Co. Mr. Nash settled in Audubon in 1878.

BENTON COUNTY.

BENCH AND BAR.

It appears to be germane to make some brief mention of facts prior to the existence of any bench or bar in the county. The act defining its boundaries was approved Feb. 17, 1843, and by the same act it was attached to Linn county. The first election after the organization of the county was held in April, 1846, at Parkers Grove, in what is now Canton township. Twenty-nine votes were cast, so that it appears the county was not very populous at that time. The earliest settlements in the county were made along its eastern border, because the title of the Indians was not extinguished in more than three-fourths of the western part until a later date. While some good families came into this strip, some that always were recognized as among the best in later years, many of those occupying it were classed among horse thieves, counterfeiters and general law breakers. These, undoubtedly, selected this part of the county for a home because it was not only the frontier, the extreme frontier, of civilization, but bordering on the lands of the Indians, to which they could escape if, perchance, some one was bold enough to prosecute them for their ill-doing. One part of this strip retained its reputation down to days when M.

P. Smith, now of Cedar Rapids, was prosecuting attorney for the Eighth judicial district; for in the trial of one criminal case he felt authorized to call Benton township "hell's half acre." This township then had many as good men as any in the county, but by reason of the constant petty thieving, well known, and the suspected horse-stealing of another class, these good men were driven to desperation by the fact that, however strong the evidence of crime was, the defendant could always show such reasonable doubt that some one would be found on the jury who would be convinced that defendant should be given the benefit of it. Seldom was any of these convicted. In this desperation they wrongly conceived that it was right to do wrong that good might come; in other words, that this class might be driven from their midst or put in due fear of the law. They resorted to lynch-law and one death resulted. No one will approve of this, but not many can be found in the county who will greatly blame these otherwise good men; for from that time no part of the county has been more law abiding, and few more prosperous.

The situation in the whole settled portion of the county was about the same as I have above described it at the time our first district court was appointed to be held, the last Monday in August, 1846. But none was held, though there were present, at the home of Thomas Way, J. R. Platt, clerk and Jas. Downs, sheriff with eighteen grand jurors and seventeen petit jurors, but no judge. No record shows anything about a fall term in the same year, but in May of 1847 Jas. P. Carelton, judge Fourth judicial district, was present at the same home, with the clerk, the sheriff, and the same number of grand jurors, named in the record, who, having been examined and accepted by the court, Sam'l M. Lockhart was made foreman and Beal Dorsey bailiff. It is said that Mrs. Way, in order to make room for the court, took whatever she had in the

way of furniture not required by the court out of the house, and continued her house-keeping under a convenient tree until court adjourned. So far as the record discloses, the grand jury was organized on the 31st day of May, and discharged on the 1st day of June, without doing anything. Nor was the judge burdened with work, for the court adjourned June 1st, and its work these two days consisted of the following: ordering the issuance of a capias for the arrest of the defendant in two cases there on change of venue from Linn county, in one of which the defendant was charged with passing counterfeit money, and in the other, with having instruments for counterfeiting; taking, in open court, the verbal recognizances of some witnesses in these two cases; discharging his two juries; hearing the report of I. M. Preston, N. W. Isbell and D. P. Palmer respecting the fitness of Wm. Smythe, afterwards district judge and congressman, for admission to the bar and admitting him; hearing the report of John David, Isbell and Palmer as to the fitness of Jas. Mitchell for admission to the bar, and refusing, on this report, to admit him. Now it appears that this same Jas. Mitchell had prior to this been prosecuting attorney, and had taken some orders in the above-mentioned criminal cases. Evidently Stephen Holcomb thought that he himself was entitled to this office. To test it he filed, on June 1st, an information in the nature of quo warranto to oust Mitchell and put himself in. This the court at once heard and ousted Mitchell, but declined to recognize Holcomb's claims, and appointed I. M. Preston prosecuting attorney, and thereupon adjourned sine die.

The October term was not held because the judge was not there, but on the 24th day of April, 1848, the court met at the same house, dismissed one of the above-mentioned criminal cases on demurrer, and submitted the other to a jury, which brought in its verdict of "not guilty" in time to let the court adjourn the same day sine die.

Judge Carleton continued to hold the court in the county until, and including, the September term, 1853. Wm. Smythe, who was admitted to the bar as shown above, was appointed to succeed him in October of the same year, and in April following was elected judge of the Fourth district. He held his first term in the county in May, 1854, and his last September, 1856. As near as can be learned, he resigned about January 1st, 1857, to take his place in the lower house of congress. He was succeeded by Isaac Cook, also, apparently, of the Fourth district, who held his first term in the county in April, 1857, and continued to hold court therein until the organization (creation, perhaps is better) of the Eighth judicial district, composed of this county, Tama, Jones, Cedar, Linn, Johnson and Iowa.

While one would naturally expect the bar of the county to be composed of inferior men, because so near the borders of civilization in these earlier days, such was not the case. Among those that were present at the first term of court none, possibly, were residents of the county, but they fairly indicate the make-up of the bar in the adjoining and more populous counties. Among them was that Nestor, I. M. Preston; N. W. Isbell, who afterwards was on the district and supreme court benches; Wm. Smythe, afterwards district judge. A little later, when the county was rapidly growing more populous, such men as Col. Shane, Joseph Dysart, John McCartney and C. H. Conklin became members of the bar. These as most know, were men of high character and fine legal ability. Two of them graced the district court bench, and one was lieutenant governor. This one, though fit to preside over the senate of the state, was not able to govern his temper at all times, for on one occasion he destroyed a law book on the pate of opposing counsel. But he is not the only one guilty of contempt of court in that way, for our amiable, even tempered Al. Haines on one occasion belabored

Mr. Cady, the opposing attorney, for some insulting remarks, and at another time G. M. Gilchrist, only to aid the court in the enforcement of repeated rulings disregarded, threw an ink stand into the breast of the delinquent attorney. In none of these cases, however, did the court impose any penalty for these rude shocks to its dignity. For this reason it is fair to presume the belligerent attorney was "more sinned against than sinning."

In the fall of 1858 Wm. E. Miller was elected judge of the new Eighth judicial district, and he held his first term in the county in the spring of 1859, and his last term in the spring of 1862. His September term, 1859, was held by Jno. F. Dillon, N. W. Isbell succeeded him, and held his first term in the county in September, 1862, and his last in February, 1864. Judge Miller is better known as one of the supreme court judges. C. H. Conklin was appointed to Isbell's vacancy in September, 1864, and he held his first term in the county in September of that year, and his last in September following, resigning November 15th, 1865. N. M. Hubbard was appointed his successor, and held two terms in the county, the spring and fall terms of 1866. In this fall Jas. H. Rothrock was elected, and he held all our courts from the spring of 1867 until November, 1875, about which time he was appointed to the supreme bench, and was succeeded by Col. John Shane, who held his first term in the county the spring of 1876, and the last one March, 1882. In the summer of this year he suffered from a stroke of paralysis, and never after was able to command words in which to express himself, though he lived for years and was, apparently, as well as ever in other respects.

Jas. D. Giffin succeeded Judge Shane and held his first term in the county in March, 1883, and his last one October, 1886, but continued on the bench in the new Linn district for some years after. In the new Seventeenth judicial district, formed about this time, were comprised

G. W. Gilchrist

only the counties of Benton and Tama. The first election in it resulted in favor of L. G. Kinne, because of the political upheaval that two years later made Horace Boies governor. Judge Kinne's first term in the county was in March, 1887, and his last for that judicial term was in the fall of 1888. About January, 1889, G. M. Gilchrist was appointed to fill the vacancy created by Kinne's resignation to become editor of a paper in Des Moines. But the new work did not suit him and, giving it up, he returned to Toledo, and in the fall of 1889 became a candidate for the remainder of the term, and was elected over G. M. Gilchrist by a few votes. Hence Gilchrist held only two terms in the county, one in the spring and the other in the fall, while Kinne held those for 1890 and 1891. In November of the last year Judge Kinne was elected to the supreme bench, and his place was filled by another democrat, John R. Caldwell, who held all the terms of court in the county for the years 1892-3 and 4. In the fall of the last-mentioned year G. W. Burnham was elected, and has ever since occupied the bench, Marshall county having been added to his district. With the addition of this county, Obed Caswell became one of the two judges and continued such down to his recent death.* It is seen that the county has furnished four judges for its district court, C. H. Conklin, John Shane, G. M. Gilchrist and G. W. Burnham; that of the judges who have presided in its court, Wm. E. Miller, Jas. H. Rothrock, N. W. Isbell and L. G. Kinne have been called to the bench of the supreme court. A very creditable showing, is it not?

From early in the fifties the business of the court began greatly to increase, not that the people were more litigious or criminal, but because so many more were found in the county, one of the best agricultural counties

*Since the above was written, J. M. Parker, of Marshalltown, and C. B. Bradshaw of Toledo, have been elected the district judges.

in the state. In fact, it has often been observed that few criminal cases have originated in the county, and in many of these the criminals came from the outside.

No mention has been made of the county court, owing to the fact that we are building a new court-house, the old records are stored away so as to be inaccessible, and so few remain that can give any reliable information that it has been almost impossible to get much information concerning this court. In the days that the county judge was Tsar in county matters, it is commonly understood that Samuel Douglas had things as he wanted them and did much as he pleased. No one thinks he grafted, except in so far as his bank could make money buying warrants that the county had no funds to pay until so bought. Otherwise his administration was clean, as was that of his predecessors. Douglas was a democrat and the leader of his party. Tom Drummond was the leader of the republicans. These two were expected, by the people, to antagonize each other, and it is said that after some of their "meetings" on the street, and while the air was yet blue with their vituperation of each other, they were in the home of Douglas strengthening the inner man, and their friendship. Then came the days when the county judge was shorn of all powers except in matters of probate. John McCartney filled the office for a time, but no one has ever found any of the records he made. The last county judge was G. M. Gilchrist, legislated out as judge and in as auditor. These probate judges seldom had an attorney to appear before them. They were their own clerks, and made out most of the reports required from guardians and administrators. Fully advised of every step taken in any matter of probate, it is questionable if they did not administer such matters in a better and much more economical way than is done today, and at much less expense to the public.

It would not do to make no mention of the prosecut-

ing attorneys of the days of the Eighth judicial district, for among them were Isaac L. Allen, Wm. G. Thompson and M. P. Smith, all men well known in the state. Allen is said to have been irascible, sometimes making things unpleasant for both court and opposing counsel, but he did not husband his anger for occasion to get revenge. Major Thompson was "slow to anger," but could most villainously pound the one who excited it with a stream of thunderous epithets. It would be hard to find today an enemy of "the Major," for, notwithstanding his occasional outbursts, he knew how to forget. Smith was made in yet other moulds, but he was a successful prosecutor. Wm. E. Miller was the first circuit court judge and he opened his first term in the county January 25, 1869, and he acted till the close of the November term, 1870. Geo. R. Struble succeeded him in January, 1871, and he acted until the close of the August term, 1872, and Wm. J. Haddock filled out the remainder of the year by appointment. John McKean was elected in the fall of 1872, and continued judge till the close of 1880, when Christian Hedges took his place and continued judge until the court was abolished in December, 1886. McKean had a stiff neck. One day when he called for reasons why jurors should not be kept, one of our leading farmers wanted to be excused, and among the reasons assigned was the fact that he had only one hired man to look after a large amount of live stock and this man had a stiff neck. He went on to say, "you know, judge, a man with a stiff neck does not amount to much." The reasons given were considered good.

Notwithstanding this court did much business, that of the district court was heavy, too much for one judge during the days of the Eighth district with seven counties. This cannot be said of the Seventeenth district now, or when it was composed of the two counties of Tama and Benton, when there was only one judge, while now there

are two judges. One judge can easily do the work now. For two it is a "snap."

In the earliest days the resident bar was composed of Jos. Dysart, Edwin Humphreville, W. C. Gaston, John Shane, John McCartney, Jno. Alexander, Wm. C. Connell and one or two others whose names are not recalled just now. Only a little later and these names were added: J. C. Traer, C. H. Conklin, S. P. Vanatta, G. W. Sells (the father of Cato), M. H. Worth, B. R. Sherman. The next crop embraced such men as Robert St. Clair, Alfred Haines, Jerry Elson, Jerry Lynch, Ed. Langley, W. A. Tewksberry, F. G. Clark, E. S. Johnson, Geo. Scrimgeour, C. I. Vail, Austin Knox and G. M. Gilchrist. J. D. Nichols does not belong to this class nor to the next but is between the two. Among these are to be found men of education and ability, and almost all are of such worth as betters any community. Tewksberry had an education superior to most of them, and had spent some time as teacher in one of the best New England academies. But for "strong water" he could and would have stood at the head of the bar and graced the bench of the highest court. Only one or two of the others named failed from the same cause. St. Clair, Elson, Lynch, Tewksberry, Johnson, Scrimgeour and Knox long ago passed over the river Styx. Haines is today a credit to the bar of San Diego, Cal.; Clark holds forth in Cedar Rapids but allows his son to do the work; Gilchrist attained to the bench for one year by appointment and is now of the class that Christ drove from the temple, but he uses others' funds. Nichols suffers from such physical defects that he has had to surrender his practice to his son, but if any one thinks he is a mental wreck a short conversation will undeceive him. In some ways he was a sly fox. Once he led Gilchrist into a trap by neglecting to interpose an objection to a question asked in a case on trial in which Judge Shane was a party and on the stand as a witness. It was in the

period when Shane's command of words was not good except when he was considerably excited. The Judge finally said: "Gilchrist, you know that is not competent," and Gilchrist innocently replied "I had my training under you, Judge." Quicker than a flash came the response "yes, and I did the best I could with the material I had." To be sure they laughed all over the court room, and Gilchrist withdrew his question, and would like to have withdrawn himself. G. W. Burnham should have been put among those just mentioned. The fact that he has been on the bench for twelve years and is the present candidate of the republicans for another term will speak more in his praise than anything said here.

Peace always reigned among the members of this bar. Seldom did any one refuse to abide by his verbal agreement, and all united in helping the court hold evenly the scales of justice; as much, at any rate, as their zeal for the cause of their clients would permit. One exception might be mentioned, that of a member who imbibed so often of that that "stingeth like an adder" at the last as to be unfit to attend to his business before the court. Called before the bar and reminded that the court would no longer overlook his condition as it then and so often was, he assured the court it was all a mistake, that he was then and always had been, while in attendance upon court, as "sober as the unborn infant lying upon its mother's breast." So often it is found true that the brightest, the wittiest, the best at repartee and the most social were those that most often became slaves to their cups.

Not much political preferment has fallen to the lot of our bar, yet we can point to J. C. Traer as a member of the convention that framed the constitution under which we live today with few changes; to Buren R. Sherman as auditor of state for two terms and governor for two; to Jos. Dysart, J. D. Nichols, Judge Shane, J. J. Mosnat and W. P. Whipple as members of the state

senate. Of the judges we certainly have had our share.

During the early sixties the bar was depleted because many of the members went into the army. S. P. Vanatta, G. W. Sells, John Shane and Buren R. Sherman were among these. If others than W. C. Connell, John McCartney and J. C. Traer remained to care for litigants their names are not at hand. True, there was C. H. Conklin, but he soon went onto the bench. At this time, and in the earlier days, "foreign" attorneys often appeared at the bar. I. M. Preston was seldom absent down to the time of his death.

The present active members of our bar are: W. P. Whipple now senator from this district, E. F. Brown, L. J. Kirkland, Tom H. Milner, Cato Sells, C. Nichols A. W. White, B. P. Harding, C. W. E. Snyder, J. R. Chambers, Jr., E. A. Murphy, S. B. Montgomery, Chas. F. Stookey, P. H. Lynch, Fred Wyckoff and that "old stand by," Chas. I. Vail, who should have been mentioned among those of the second crop. Others are carried on the list of members but seldom come into court. Perhaps the most notorious of all is Tom H. Milner, who believes in what the papers so persistently preach; advertising. His letter head is unique. Nor is he at all bashful in it, in the court room and everywhere to claim and proclaim his ability and worth. Whatever he is not, no one will deny that in some ways he is original. His hand-writing would shame Greeley. Nichols is more than filling the place of his father as a lawyer, but cannot hold a candle to him as a pleasant, effective talker. M. J. Tobin, who, strange to say, was overlooked in naming the active lawyers above mentioned, is among the best of them. When his hair was worn long, soon after he came out of school, some pretend to say the fearful way he shook those locks made more impression on the jury than the words he spoke, but this is not true, for he has always been a good talker, and he knows this as well as anybody else. Ambitious,

nervous and excitable, it hurts him to lose a case, but he once lost one because he would not let the witness, on cross examination, answer fully a question he had asked because he suspected a "job." What shall be said of Cato? It is useless to write Sells after his first name, for you all know him. Possibly it is true that he thinks more of politics than of law. "The more's the pity" so long as he stays in Iowa. He is the equal of Milner in his faith in advertising, and if democracy ever comes to the top again you will find him leading, or trying to, the head of the column. This political fever seems to be contagious, for Whipple has caught it. The law office and its work has no longer the charm they once had, for there is certainly "a bee in his bonnet." He is on the right side, politically, for Iowa, and if he can make the people believe of him what he believes, you may hear of him in Congress one of these days, provided, always, that Robert G. gets out of the way. There's E. F. Brown. Like Whipple, he is a son of the State University. About six years ago he came here from Kearney, Neb., where he acquired the title of Judge. He and Gilchrist, his father-in-law, live in a double house. The Synod of Iowa is now in session here. Notwithstanding all law to the contrary, they billet the preacher upon the people. One of these was trying to find Gilchrist's home but could not. Hailing a little boy he asked, if there was a judge living about here? "Yes, two on 'em in that there house." "Not two, you do not mean two?" "Yes, two, but one on 'em is a real judge and t'other is only a lawyer." If he is not a "real" Iowa judge he is a real good fellow and a good lawyer. He has two brothers, and if he keeps pace with them he must "hump himself," for the one hopes to be the next U. S. senator from Nebraska, and the other is somewhat famous as the "Buster Brown" of Cummins' present third campaign, for governor. If corporosity "is the measure of the man" our Brown is the smallest. Most people think he, too,

will win if "honesty is the best policy" and industry leads to success. Snyder has unlimited confidence in himself, and any cause he undertakes. A good thing if used aright. Time will teach him, but will not persuade him to underestimate himself,—another good thing, if not abused.

The limit you put on this sketch will permit the mention of only one or two more. A. W. White and L. J. Kirkland are partners, well mated. The one suffers with "irritation" and often "explodes" violently. The other is suave and politic, so much so that sometimes you hardly know "where he's at." You can soon find White if you touch his "irritation." Able, honest and industrious, they have won the people's confidence and deserve it. More has already been put down than your instructions allowed. What has been said has been "with malice toward none and charity for all."

William P. Whipple, member of the firm of Whipple & Brown, was born on a farm near Vinton, Iowa, December 26, 1856. His parents were C. T. and Nancy Jane (Cline) Whipple. He spent his early life on his father's farm. He graduated from the academic department of the State University in 1877, and from the law department in June, 1878, and was admitted to the bar, commencing the practice of his profession at Vinton, Iowa, August 14, 1878. He was elected City Attorney in March, 1879, and was retained in that office for seven or eight years. Mr. Whipple was for many years a member of the firm of Gilchrist & Whipple. Judge G. M. Gilchrist has since retired and his son-in-law, Judge E. F. Brown, is now a member of the firm of Whipple & Brown. He has been a member of the Independent Order of Odd Fellows for about 27 years; also member of the local lodge Knights of Pythians. He has been a life long republican. He was elected to the state senate for the second time at the fall election, 1906, Benton and Tama district.

W. P. Whipple

BLACK HAWK COUNTY.

HISTORICAL.

The history of the Black Hawk county bar commences with June 27, 1854, when the first term of the district court was held in this county—this county then being in the Second judicial district of the state. The court opened June 15, 1854, Hon. Thomas S. Wilson presiding. The record shows that the court was in session but one day; five cases were dismissed and one appeal case continued, and W. H. McClure, a practicing attorney of the state of New York, was admitted to practice. There being no further business, court adjourned.

The second term of the district court was held in March, 1855. Two New York attorneys, S. H. Packard and S. W. Rawson, were admitted to practice.

At the March term, 1857, the court was in session three days.

The first murder case, entitled State of Iowa v. Jacob Harmond, was tried at the September adjourned term, 1857, on October 22d to 23d, inclusive, and a verdict of murder in the second degree was rendered, and the defendant was sentenced to eleven years in the penitentiary.

The Black Hawk county bar has always had a high standing in this state, and has furnished five judges for this judicial district. The first judge was Hon. Sylvester Bagg, who was judge of the circuit court for several years, and afterwards served as judge of the district court until January 1, 1883, when he was succeeded by Hon. C. F. Couch of this county who served eight years. Hon. J. L. Husted was judge of this court for four years and Hon. J. J. Tolerton for three years, when he was compelled to resign on account of ill health. Hon. Franklin C. Platt was appointed to serve out the unexpired term, and has been twice re-elected and has served in all nine years on

the bench. He was unanimously renominated for another term, beginning January 1, 1907.

Black Hawk county has always been noted for its intelligent juries, and as a consequence some noted cases have been tried in this county upon change of venue. Probably the most noted case that has been tried in this county was entitled Robert Johnson v. E. V. Miller and six other defendants, and is commonly known as the "Jones County Calf Case," the case growing out of the prosecution of the plaintiff, Robert Johnson, for stealing some calves in Jones county, and was an action for malicious prosecution against the defendants. The case was tried several times in other counties before it came to this county, and was pending in this county for ten years. In July, 1882, the case was tried, which resulted in a verdict for the plaintiff for $5,000. This case was reversed by the supreme court, and was again tried in October, 1885, and the verdict was in favor of the plaintiff for $7,000. This case was reversed by the supreme court, and was again tried in March, 1889, when a verdict was rendered for $1,000 in favor of the plaintiff. This was appealed to the supreme court and the case affirmed, and final judgment was entered in the case in 1892. In this case witnesses who were school children at the time of the first prosecution of Johnson for the theft of the calves were well advanced in years before the case was finally determined. The taxable costs amounted to several thousand dollars, and it is said that the case impoverished all connected with it.

It appears to me that it may be proper to mention some of the attorneys who are no longer engaged in practice, who have been prominent at the bar. Among the number was H. B. Allen. He came to the county in 1857, having been admitted to practice, at Dubuque, Iowa, in 1856. He associated with him in the practice of law Hon. Sylvester Bagg, a lawyer of considerable

experience and high standing, from Elyria, Ohio, and the firm of Bagg and Allen was for many years the leading law firm of this county. Mr. Allen continued in the practice of law until 1874, when he withdrew from the firm on account of ill health, and after his health was partially restored he engaged in the banking business in the city of Waterloo. He is now a resident of South Pasadena, California. Mr. Allen was a lawyer of eminent ability and a very successful practitioner. In 1867 he formed a partnership with Horace Boies, under the firm name of Boies & Allen.

Horace Boies soon became one of the leading lawyers in this part of the state, and had a large business throughout Northern Iowa. Before coming West he had been a member of the New York general assembly, and that was the only political position he held prior to his coming to this state. He was elected governor of Iowa and served with distinction for four years. Before Mr. Boies was elected governor of the state he associated with him in the practice of the law his oldest son, E. L. Boies, and after Governor Boies assumed his duties as governor E. L. Boies associated with him J. L. Husted, and later his brother, H. B. Boies.

E. L. Boies was a lawyer of great ability and had a large practice. He died of typhoid fever in the spring of 1903, at the age of about forty years. It is given to but few men to reach as high a place in the profession as he had at the time of his death.

Black Hawk county has also furnished one attorney-general of the state, the present incumbent, Hon. C. W. Mullan.

Among the members of the Black Hawk county bar who have held political positions are Hon. H. C. Hemenway of Cedar Falls, who has been a member of the general assembly and of the state senate; Hon. C. W. Mullan, who was senator for one term; Hon. O. B. Courtright, who was senator for two terms.

There are few bars in the state where the ethics of the profession are more closely followed than they are in this county. Ambulance chasers have been rare in the Black Hawk county bar.

The members of the bar who have occupied the position of judge have been men of ability, and their decisions have ranked well, as shown by the records of the supreme court. Hon. C. A. Bishop, one of the justices of the supreme court, commenced the practice of law in this county.

The writer has been intimately acquainted with the bar of this county for a third of a century, and can bear testimony to the high and honorable position it has always maintained. The present members of the profession are peers of the bar at any time in its history.

The Bar Association was organized several years ago, and the first president was W. H. McClure, who was admitted to practice at the first term of court held in the county. Mr. McClure is still a resident of the county, but on account of advanced years and feeble health, he is not in active practice. O. B. Courtright is the present president of the Bar Association, and J. S. Tuthill is secretary.

BIOGRAPHICAL.

Charles W. Mullan was born in Wayne county, Illinois, December 31, 1845. His father was Charles Mullan, an early settler in Black Hawk county. He came to Waterloo with his parents and has resided in the state ever since. His early education was received at the public schools and the Upper Iowa University. He read law and was admitted to practice his profession in 1870. He began to practice law at Waterloo. He filled the office of city solicitor for a time and held the office of county attorney for a number of years. He was elected state senator on the republican ticket from his district, composing the counties of Black Hawk and Grundy, serving in the

O. C. Miller

Twenty-seventh and Twenty-eighth general assemblies. Before the expiration of his term, he resigned to accept the office of attorney-general, to which he was elected in 1900. At the end of his first term he was re-elected and is now (December, 1906) filling that position.

Herbert B. Boies was born in Waterloo, Iowa, May 9, 1867, and is a son of Hon. Horace and Versalia (Barber) Boies. He has spent practically his whole life in his native town. He was graduated from the high school in 1885. He then took a collegiate course at the University of Iowa, graduating from the law department in 1890 or 1891 and was admitted. He began to practice at once, and became a member of the firm of Boies, Couch & Boies, which continued until the death of Judge Couch, about 1896. In 1903 his brother E. L. Boies died. He was alone then in practice three years, when in January, 1906, Mr. W. R. Law joined him in business. In politics he is a democrat, but not very active. He has never held a political position.

O. C. Miller was born in Kentucky in 1840. He laid the foundation of his education in the local common schools and Western College, Linn County, Iowa. His father came to Iowa in 1851. The subject of this sketch read law with Bagg & Allen at Waterloo, and he was admitted in 1865. He was a member of the firm of Bagg, Allen & Miller one year. Then the firm became Bagg & Miller, which continued until Judge Bagg went on the bench in 1869, and then the firm was Miller & Miller for a few years, then Miller & Preston (Present judge of the Eighteenth district). They were together for eight years. Mr. Miller then was alone in business for twenty years, and then the present partnership was formed as Miller & Williams. Politically Mr. Miller is a republican.

John E. Williams was born in Wisconsin February 23, 1866. He came to Iowa with his parents and settled in Grundy county when he was four years old. After re-

ceiving a common and high school education, he took a collegiate course at the State University and graduated from the law department in 1889, and was admitted that year. In 1891 he began to practice at Reinbeck. In 1895 he removed to Waterloo. He was associated with Mr. Kern for two years as Williams & Kern. Then he practiced alone for three years. About 1900 he formed a partnership with O. C. Miller, and for six years they have been doing a general law business. Politically Mr. Williams has always been an ardent republican. He was county attorney of Grundy county, and for eight years city attorney of Waterloo.

George W. Dawson is a native of Iowa, born in Butler county March 17, 1865, on a farm, where he remained until twenty years of age. He took a two years collegiate course at the Iowa State University; then read law, and graduated from the law department of the State University in 1886, and was admitted. In the fall of 1887 he began to practice his profession at Waterloo, and he has continued ever since. He served as county attorney from 1888 to 1894.

Franklin C. Platt was born August 20, 1854, in Warren, Illinois. His father was Judge John D. Platt, and his mother before her marriage was Julia E. Carpenter. Like other boys, he attended the common and high school until he was fifteen years of age. He then took a collegiate course at the University of Illinois, and graduated in 1873. He then read law at the Union College of Law at Chicago, and was admitted to the Illinois bar in 1876, and to the Iowa bar in 1878. He practiced two years in Chicago, when in 1878 he removed to Dow City, Iowa, where he resided until 1883, when he removed to Waterloo, Iowa. He has served as a member of the city council. He was appointed judge of the district bench to succeed Judge Tolerton, who resigned. In 1898 he was elected judge and re-elected in 1902, and renominated and re-elected in 1906. In politics he is a republican.

A. B. Switzer was born in Louisville, Kentucky, June 28, 1868. He attended the common schools and the State University of Indiana. He taught school in Indiana for a time and, having decided to enter the legal profession, he studied law in the office of Hon. John Overmeyer, North Vernon, Indiana. In 1886 he was admitted to the Indiana bar. He practiced law about eight years at North Vernon. Then he took a trip around the world. He came to Iowa in 1899 and settled at Waterloo, where he has been in practice ever since. He was admitted to the Iowa bar the year he removed to the state. He is a 32nd degree mason, a republican, and at one time prosecuting attorney in Jennings county, Indiana.

J. E. Sedgwick was born in Moline, Illinois, June 4, 1854, where he resided until seven years of age. Then his parents removed to McHenry county, Illinois, taking the son with them. Later the family removed to Champaign county, Illinois, where our subject lived until he was twenty-six years old. He attended the public schools and Grand Prairie Seminary, Illinois. He read law with C. H. Frew, Paxton, Illinois, and was admitted before the supreme court of that state in 1881. He came to Iowa the same year, and was admitted. He practiced law six months at Paxton, Illinois, and then removed to Waterloo, where he has resided ever since. He is president of the Leavitt & Johnson National Bank, and gives most of his time to banking, though he still keeps up his profession as a lawyer. He has been in the city council for fifteen years, and is a republican in politics.

Lore Alford, Jr., was born in Waterloo, Iowa, October 24, 1881. He was graduated from the high school. He then took a two years' collegiate course at the State University, and in 1905 he graduated from the law department, and was admitted. He began practice at once in the office of Edwards & Longley. He opened an office by himself in July, 1906, and is in general practice.

Wm. R. Law was born on a farm in Black Hawk county, Iowa, November 26, 1880. He attended the public schools of Hudson, Iowa, and East Waterloo High school, graduating in 1899. He read law at the Iowa State University, and was graduated and admitted in 1904. He practiced law at Waterloo by himself a year and a half and then, on January 1, 1906, he became a member of the firm of Boies & Law.

Benjamin F. Swisher is a native of Iowa, being born in Iowa City, January 21, 1878. He spent his boyhood in Iowa City, where he attended the public and high schools, graduating in 1895. He took a collegiate course at the State University, graduating therefrom in 1899. He read law at the University and was graduated and admitted in 1900. He began practice at once with Mullan & Pickett. Since 1903 or 1904 he has been alone in the law business. He is now serving his second term as city attorney.

Henry H. Bezold was born September 15, 1852, in Philadelphia, Pennsylvania. His parents died when he was quite young. When he was about twelve years old he came to Dyersville, Dubuque county, Iowa. He received his early education at the public and high schools. He attended the Upper Iowa University at Fayette and took a collegiate course at the University of Iowa. He read law with Boies & Allen at Waterloo, and with James Jamison at Independence, Iowa, and was admitted in November, 1873. He began the practice of his profession in partnership with Boies and Allen, which continued until 1878. He then opened an office by himself, and has been in practice alone continually ever since at Waterloo. He served as city attorney for a number of years.

James C. Murtagh was born in Waverly, Iowa, June 16, 1880. He attended the public schools and Nora Spring Seminary. He read law in the State University of Iowa, graduating from the law department in 1901.

A. J. Edwards

In 1902 he graduated from Yale. He was admitted to the Iowa bar in 1901. He began to practice at Waterloo in 1902. In politics he is a democrat and chairman of the county central committee.

Albert J. Edwards was born in Troy, Walworth county, Wisconsin, January 22, 1847. He came to Black Hawk county, Iowa, in 1857, where he has since resided, making his home at Waterloo. He received his general education at the common schools of Wisconsin and Iowa. He read law while clerk of the district court of Black Hawk county at the suggestion of Horace Boies, who was afterwards governor of Iowa. He was admitted before the district court of Black Hawk county, June 19, 1884. He has practiced his profession in partnership with Alfred Longley since January 1, 1898, under the firm name of Edwards & Longley. In politics he is a republican. He served as deputy sheriff of Black Hawk county from January 1, 1870, to January 1, 1873, and as deputy clerk of the district court from January 1, 1881, to May 1, 1892, when he resigned to re-enter the practice of law.

Alfred Longley was born in Tipton, Iowa, September 14, 1868, where he spent his boyhood. He was educated in the public schools of Tipton and Cornell College, Mt. Vernon, Iowa. He read law in the office of C. W. Mullan, Waterloo, Iowa, and was admitted at the January term of the supreme court in 1896, at Des Moines. He was in partnership until the latter part of 1896, with J. T. Sullivan. In 1898 he joined A. J. Edwards, under the firm name of Edwards & Longley, which still exists. He is a member of the Waterloo Lodge A. F. & A. M. and B. P. O. E. He is a republican.

John W. Arbuckle was born on a farm in Fayette county, Iowa, August 19, 1864. He received his education at the district schools, Manchester Academy and Epworth Seminary, graduating in 1883. In 1886 he was graduated from Cornell College. He read law at the

College of Law of Boston University, and graduated in 1890. He was admitted at Des Moines before the supreme court that year, and began to practice at Parkersburg, Butler county, Iowa, with O. B. Courtright, under the partnership name of Courtright & Arbuckle. The partnership has continued to this day. An office was opened at Waterloo August 1, 1894, conducted by Mr. Courtright. In 1897 Mr. Arbuckle, who had charge of the business in Parkersburg, removed to Waterloo, his present location. He was county attorney of Butler county from January 1, 1893, to January 1, 1897.

Carlton Sias was born in New York State November 22, 1877. He graduated from Cornell University in 1898, and was admitted in New York in 1899, and in Iowa in the fall of 1903. He practiced his profession at Rochester, New York, until he came to Waterloo in 1903. He is secretary of the Leavitt & Johnson Trust Company.

Chester D. Kern was born in Dodge county, Wisconsin, July 29, 1871. His parents moved to Grundy county from Wisconsin in 1878. He received his early education at the public and high schools. For three years he taught school in Grundy county. He read law at the State University of Iowa, and was admitted in 1895. He began the practice of law in 1895 with John E. Williams, under the firm name of Williams & Kern. Since 1898 Mr. Kern has been engaged in general practice by himself. In politics he is a republican.

J. H. Hildebrand was born on a farm near Waterloo April 7, 1874. He graduated from the Waterloo Business College in 1898. He then took a two years' collegiate course at the University of Iowa, and was graduated from the law department and admitted in 1901. He began to practice at once at Waterloo as Hildebrand & Feely. In 1905 Mr. Feely withdrew from the firm, since which time Mr. Hildebrand has been alone in the law business.

O. B. Courtright was reared on a farm in Grundy

county, Iowa. He was born in De Kalb county, Illinois, November, 1849. He laid the foundation of his education in the local common schools. He read law by himself on Sundays and nights, and was admitted to the Iowa bar in 1878. He came to Waterloo in 1894 to practice his profession. He has served as state senator from this district since 1901. Mr. Courtright has always been an ardent republican, and he has always taken an active interest in political campaigns.

Edward T. Cowin came to Iowa in 1870, settling in Waterloo. He was born in Cleveland, Ohio, in 1847. He read law and was admitted the year he removed to Iowa, and has practiced law in Waterloo for many years, but is now retired.

Lore Alford, Sr., came to Waterloo from Maine in 1866, and died at his home March 30, 1900. He was born in Hope, Maine, in 1838. He read law and was admitted to the Maine bar in 1865, and to the Iowa bar the following year. In May, 1861, he enlisted at Albany in Company A, Sixteenth Volunteer Infantry. In June, 1862, he was commissioned first lieutenant of Company H. Eighth Maine Volunteer Infantry. During the fall and winter of 1863 and 1864 he served as judge advocate at Beaufort and Hilton's Head, S. C. On September 14, 1864, he was commissioned captain in the Eighth Maine Volunteer Infantry. He was a member of the Seventeenth general assembly, 1878-1881, and speaker of the house from 1881 to 1883. He was a member of the firm of Alford & Elwell from 1866 to 1880, and of Alford & Gates from 1881 to 1900.

Charles E. Pickett was born in Van Buren county, Iowa, January 14, 1866. In 1872 he came to Black Hawk county and went on a farm for a short time. He was educated in the local common and high schools, and at the University of Iowa, graduating in 1888. He read law and was graduated from the law department of the University

of Iowa, and was admitted in 1890. The same year of graduation he formed a partnership with C. W. Mullan under firm name of Mullan & Pickett. Mr. Pickett is regent of Iowa State University. Politically he is a Republican.

John D. Liffring was born in Wisconsin December 25, 1870. He came to Iowa with his father when he was five years old. He was admitted to the bar in 1898. He is in the law firm of Gates & Liffring.

Alva B. Lovejoy was born September 1, 1867, in Mitchell county, Iowa. He was admitted in 1894. He removed from Osage to Waterloo in 1902, and is of the firm of Mears & Lovejoy.

Samuel B. Reed has been a member of the firm of Reed & Tuthill for fifteen years. He served as county attorney for three consecutive terms, holding that office six years. He was born in Ohio May 6, 1856, and was admitted to the Iowa bar in 1884.

Sherman T. Mears has been a resident of Iowa for forty-two years, having been born in Earlville November, 1864. He came to Black Hawk county at the age of ten years. He practiced law at La Porte City until 1902, when he removed to Waterloo. He read law and was admitted in 1892. He is now holding the office of county attorney.

John C. Gates was born in New York State February 16, 1838. He read law with Bagg & Allen at Waterloo, and was admitted in 1877. In 1881 he formed a partnership with Lore Alford, which continued until the death of Mr. Alford in 1900. He is now of the firm of Gates & Liffring.

Herman C. Hemenway is a native of New York State, having been born April 1, 1834, at Potsdam. His father was Vashin Hemenway, and his mother before her marriage was Eliae Goodman. His boyhood and early youth were spent at Potsdam. When sixteen years of age he

came West, locating at Freeport, Illinois. His education was acquired at the common schools, such as could be attained at Freeport. He taught school for some time, and read law with Meacham & Bailey at Freeport. He was admitted to the bar in Illinois in 1860, and began to practice his profession at Freeport. In September, 1861, he removed to Iowa, locating at Independence, where he practiced his profession, having been admitted to the Iowa bar that year. In August, 1862, he enlisted in Company C, Twenty-seventh Iowa Volunteer Infantry, and served until August, 1865, as second lieutenant. At the close of the war he settled at Cedar Falls, where he resumed the practice of his profession. In 1875 he was elected representative in the Sixteenth general assembly, and served one term, when in 1877 he was elected to the state senate, serving in that body through the Seventeenth, Eighteenth, Nineteenth and Twentieth general assemblies. He has been a member of the school board and city council for many years. He was elected mayor in 1903, and served one term. He is one of the leading lawyers and prominent republicans of Northern Iowa.

J. B. Newman came to Black Hawk county with his parents when he was ten years of age, and has resided in the county ever since. He was born in New York State December 24, 1870. He graduated from the Cedar Falls high school in 1888, and from the law department, University of Iowa, in 1897. He began to practice at Cedar Falls in 1898, having been admitted the year before. He formed a partnership with W. A. Graham, and at the end of one year he removed to Waterloo, where he spent about two years and then returned to Cedar Falls, where he has resided since. In politics he is a republican. He has been official court reporter since 1895. He was in partnership with Viggo Lyngby from October, 1903, to July, 1906, since which time he has had no one associated with him in the practice of law.

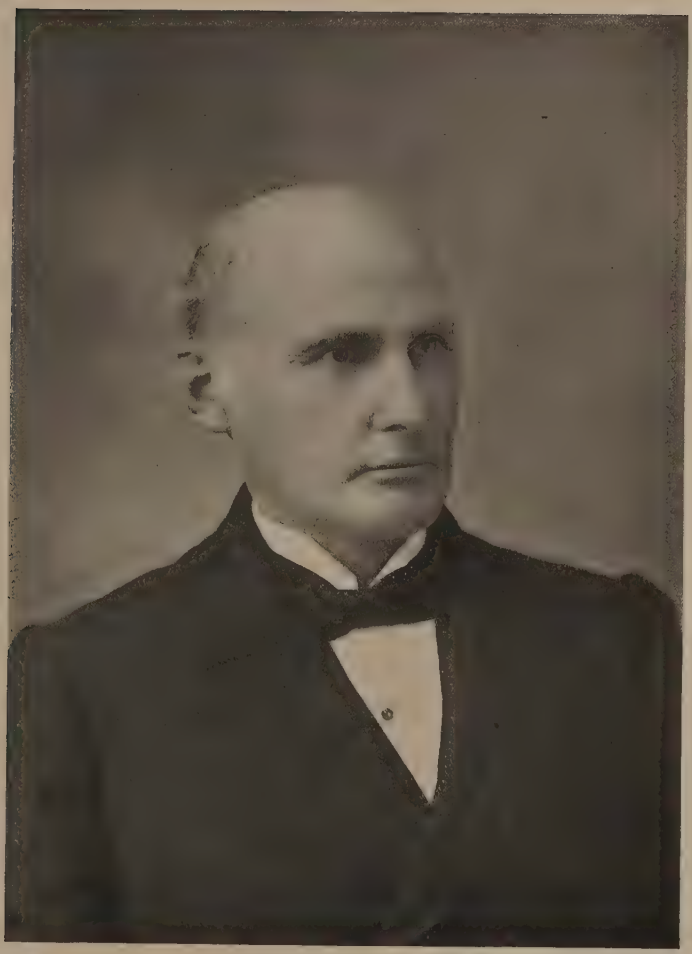
William H. McClure has practiced his profession at Cedar Falls, Iowa, for fifty years, having removed here from New York in 1853 and retired in 1903. He was born in Watertown, New York, May 5, 1829. He read with Haight & Chase, of Rochester, New York, and was admitted in 1851. He is the oldest living member of the Black Hawk county bar.

Le Clair Martin, Cedar Falls, was born November 29, 1870. He was admitted in 1896, and is associated with H. C. Hemenway in the practice of his profession.

Wm. H. Merner, mayor of Cedar Falls, was born in Canada, March 30, 1868. He came to Cedar Falls with his parents when he was seven years old. He read law at Ann Arbor, Michigan, and was admitted in 1894. He was city solicitor for three terms before he was elected to the office of mayor in 1905.

M. B. Dougherty was born in Beaver county, Pennsylvania, February, 1844. He came to Iowa with his parents when ten years old and settled in Bremer county. He attended a private academy at Janesville, Iowa; read law with Ruddick & Avery, of Waverly, Iowa, and was admitted in September, 1869. He began to practice with Mr. Avery in 1870, under the firm name of Avery, Dougherty & Gray. He has now retired from the practice of law.

James Jared Tolerton was born June 22nd, 1840, on a farm near Salem, Ohio. He was the son of Hill Tolerton and Lucy Mary (Warner) Tolerton. During the early years of his life, he resided on a farm in eastern Ohio, both of his parents being natives of Ohio. His father's parents came to this country in the year 1806 and located in Ohio. They were of Scotch Irish descent and were devout members of the Friends (Quaker) Church. His grandmother's name on his father's side was Douglas. His mother's parents and grandparents were of old New England stock, being natives of Vermont. His maternal grandmother's



J. J. TOLERTON.

name was Ramsay. Like most boys brought up on a farm he attended the common schols in the Eastern District of Ohio. He afterwards attended a private seminary in Salem, Ohio, and later took course at Alleghany College, graduating in the class of 1864. He studied law in a private law office in New Lisbon, Columbiana County, Ohio. He spent some time teaching during his younger years. He passed his examination in open court in Ohio and was admitted to the bar the latter part of the year 1865. In July, 1866, he located in Cedar Falls, Black Hawk County, Iowa and has made that place his home since. He has always been alone in his practice, having never entered into partnership with anyone, and has been actively engaged in the practice in the Courts of Iowa, until he went on the bench where he remained about one term or for four years, when he resigned his position on account of his poor health. He is a member of Masonic Order, being a Knight Templar thereof. He has always been an ardent Republican, adhering to its principles ever since he reached his majority and cast his first vote; has given little attention to politics, and has never held any political position excepting the one term he served as District Judge. He was married June 12, 1866 to Miss Margaret Taylor.

Following is the roll of attorneys now in active practice at the Black Hawk county bar:

WATERLOO.

Alford, Lore, Bezold, H. H., Birdsall, W. N., Boies & Law, Butterfield, M. J., Courtright & Arbuckle, Dawson, G. W., Edwards & Longley, Feely & Feely, Gates & Liffring, Gouge, Jesse, Hildebrand, J. H., Howrey, B. J., Hoxie & Brunn, Kennedy, Geo. C., Kern, C. D., Mears & Lovejoy, Merriau, F. S., Kelly, H. M., Meyers & Spies, Miller & Williams, Mullan & Piskett, Murtagh, J. C., Pike & Knapp, Rudolph & Reisinger, Reed & Tuthill,

Sedgwick, J. E., Sullivan, J. T., Swisher, B. F., Switzer, A. B., Wilson, Ellis E., Wenner & McCoy.

CEDAR FALLS.

Dougherty, M. B., Grundy, Alfred, Hemenway & Martin, Lyngby, V., Merner, William H., Newman J. B.

LA PORTE CITY.

Hayzlett, P. L., Hauger, William E.

BOONE COUNTY.

HISTORICAL.

Boone county was organized by act of the first state legislature in 1846-7 and was named in honor of Cap't. Nathan Boone of the First Regiment of the United States Dragoons. He was a relative of Daniel Boone of Kentucky fame, and had been an early explorer of North Central Iowa. Up to 1849 Boone was attached to Polk County for judicial, election and revenue purposes. In 1849 the first county officers were elected, as follows: Jesse Hull, J. Boles, and John Boyles, county commissioners; R. S. Clark, commissioners' clerk, John M. Wayne, clerk of the courts, John M. Crooks, recorder, and treasurer, Samuel H. Bowers, sheriff, Thomas Sparks surveyor and W. C. Hull, prosecuting attorney. Ninety votes were cast. At this time there was not a town or village in the county. A legislative act providing for the location of a county-seat became operative January 18, 1851. Two commissioners to locate it, namely David Sween of Marion county, and S. K. Scovell of Dallas, got together and drove a stake July 6, 1851, where the courthouse was afterwards built. The town was laid out by order of the county commissioners and named Boonsboro, which is now the county-seat of Boone County.

At the election in August, 1851, Samuel B. McCall was elected county judge and entered upon the duties of his office at once, and the board of county commissioners was

superseded by the county judge. Judge McCall, having held the office for several consecutive years, was succeeded by Judge Montgomery, who held the office quite a time. He in turn was succeeded by McCall, and the latter was again succeeded by Montgomery and he held the office until it was abolished.

The county judge system of county management expired January 1, 1861, and was succeeded by a board of supervisors consisting of fifteen members—one from each township.

The first district court was held in Boone county in October, 1851. In most instances through the state courts were held in the several counties the same year they were organized, and held regularly every year thereafter. In this particular, Boone county furnished an exception to the rule, no court having been held in this county for two years after the organization and the second court not being held till the year 1853. William McKay was the first district judge and he held court in October 1851. As there had been no prosecuting attorney elected, the court appointed Madison Young to act as such during this term. Wesley C. Hull was the first attorney admitted to practice.

BIOGRAPHICAL.

Joseph R. Whitaker was born June 3, 1852, in Philadelphia, Penn. His early education was acquired in the common public schools and later he attended the Iowa State College at Ames. He took up the study of law and, continued same, while teaching, and was admitted by the district court of Hamilton county, Iowa, in 1877. He located in Boone, Iowa, in 1878 and formed a partnership with John A. Hull (now deceased), which continued until January 1, 1886. From July, 1893 to January 1, 1899, he was associated with Robert F. Dale. Mr. Whitaker was a member of the Iowa National Guard from 1879 to 1884 as captain of the Boone company. He

has served as city attorney and mayor of Boone, county attorney for three terms and judge of the Eleventh Judicial district two terms. In politics he is a republican.

Llewellyn V. Harpel was born near East Liberty, Logan county, Iowa. His early boyhood was spent on a farm in Madison township, Polk county, south of Sheldahl, where he attended the county schools. He later pursued his studies at the Iowa State College, taking up the general science course, graduating with B. S. C., 1887. He continued the study of law at Drake University, Des Moines, and was admitted May, 1890. Soon after his admission to the bar he entered the office of Kauffman & Guernsey, attorneys in Des Moines, and did office work for them as clerk and stenographer until January 1, 1891, when he became associated with John Shortley at Perry, Iowa, and worked on a salary for eighteen months, at which time he formed a partnership under the firm name of Shortley & Harpel. On June 1, 1903, he removed to Boone county, locating at Boone and succeeded Chas. Whitaker in the firm of Whitaker & Cederquist. Later M. C. Creighton of Madrid, was taken into the firm, having charge of a branch office at Madrid, the present firm name being Harpel, Creighton & Cederquist, Boone, Iowa.

Mr. Harpel is a master Mason, K. of P., M. W. A., and W. O. W. Some twelve years ago Mr. Harpel was a democrat, and at that time was city solicitor at Perry, but changed his politics to that of republican about ten years ago. He was married July 20, 1892, to Kate Stevens.

Harvey L. Ganoe was born in McLean county, Ill., February 1, 1861. He is the son of James and Sarah A. (Taylor) Ganoe. He received his education at the Northern Indiana Normal School and the Illinois Wesleyan University. He took up the study of law alone while teaching school and working on a newspaper and was

admitted to the bar in Nebraska in April, 1888. The same year he opened an office in Greeley, Neb., where he was alone in the practice until January, 1897. He was county attorney of Greeley county, Neb., from 1895 to 1897. From January, 1897 to October, 1898, he was in partnership with T. J. Howard, at which time he removed to Boone, Iowa. On January 9, 1900, this partnership was dissolved and a partnership with Frank Hollingsworth was formed, which continued to February, 1905, and was succeeded by Ganoe & Ganoe, the junior member of the firm being a brother of Mr. Ganoe. He has been county attorney of Boone county, Iowa, since January, 1903. He is a republican in politics.

THE PRESENT BAR.

The attorneys of Boone county are: W. D. Evans, J. R. Whitaker, J. H. Richard, D. R. Hindman, Stevens & Fry, D. G. Baker, Goody Koontz & Mahoney, F Porter, Arthur Crary, Dyer & Hull, W. B. Means, J. A. Menton, Harpel, Creighton & Cederquist, M. I. Cooper, Phil Livingston, J. J. Southworth, C. I. Sparks, Arthur T. Browne, G. C. Hull, R. F. Dale, Ganoe & Ganoe, H. W. Hull, F. Hollingsworth, G. W. Crooks and J. J. Snell.

BREMER COUNTY.

HISTORICAL.

The settlement of this county began in 1845, and in 1847 the county was surveyed into congressional townships. In 1850-1, Bremer was attached to Buchanan county for civil and judicial purposes. The first election was held April 29, 1851, at the house of John H. Messinger, in Jefferson township. At this time O. H. P. Roszell was county judge of Buchanan county. April, 1853, the second election was held. In May, 1853, Jas. W. Wood, John T. Barrick and O. H. P. Roszell, commis-

sioners for that purpose, located the county seat at Waverly. In July, 1853, a convention was held at the "red cedar stake" which marked the location of the county seat, just north of where the court house now stands, and candidates for the various offices were nominated. In August, 1853, the organization of the county was made permanent by the election of county officers. Jeremiah Farris was elected county judge, Heman A. Miles, clerk of court. This brought Bremer county into official existence.

The territory comprising Bremer county was originally a part of Winnebago reservation. It subsequently became a part of the "Neutral Land." On the passage of the act creating the counties in the northern part of the state, the name Bremer was bestowed upon this territory at the suggestion of Governor Hempstead, in honor of Frederika Bremer, a noted Swedish authoress.

At the time of organization of the county the powers of the present board of supervisors were vested in the county court, which consisted of a judge, county prosecuting attorney and sheriff. The judge had entire jurisdiction in all matters which could not properly be brought before the district court, and he was to a certain extent "supreme ruler" in local matters. The office was the most important one in the gift of the people of the county. The records of the county commence with the first session, held at Waverly, in the fall of 1853. The first court consisted of Jeremiah Farris, county judge, Austin Farris, sheriff, Hon. W. P. Harman, prosecuting attorney.

When Bremer county was organized it became a part of the second judicial district, composed then of Buchanan, Cedar, Clayton, Clinton, Delaware, Dubuque, Fayette, Jackson, Jones, Muscatine, Scott, Allamakee, Winneshiek, Black Hawk, Butler, Grundy and Bremer. Chickasaw and Howard were subsequently added, and various counties were taken from it, so that, in 1858, when the district

was abolished under the new constitution, it consisted of Black Hawk, Bremer, Buchanan, Delaware and Dubuque. The first term of district court was held in Bremer county, in June, 1854, and presided over by Thomas S. Wilson, judge of the second judicial district, Austin Farris sheriff and H. A. Miles, clerk. Among the attorneys present were P. W. Sevan, I. M. Preston, B. W. Poor and Older Lee.

The second term was held in September, 1855, presided over by the same officials. One of the first acts was the admittance of John B. Wyle to the bar, on motion of B. W. Poor.

The third term was held at Waverly, June, 1856. For some reasons the attorneys agreed that all legal matters which had come up for this term should be postponed. It was signed by L. L. Ainsworth, I. M. Preston, Smith, McKinly & Poor, J. T. Lovell, Adams & Lovell, D. S. Lee, A. F. Brown, P. V. Swan, G. C. Wright. Judge Samuel Murdock of the district presided. At the September term, 1856, Judge T. S. Wilson was on the bench, J. G. Ellis, sheriff and Heman A. Miles, clerk. The record says "as P. B. Swan, the prosecuting attorney, is sick and unable to attend, B. F. Perkins is appointed in his stead for this term." The next term was held in March, 1857, and was presided over by T. S. Wilson, judge of the second district. J. G. Ellis was sheriff and H. A. Miles, clerk. In 1858, Bremer county became part of the Tenth judicial district, composed of Alamakee, Bremer, Butler, Clayton, Chickasaw, Fayette, Floyd, Howard, Mitchell and Winneshiek counties. At the October election of 1858, Elias H. Williams was elected judge, was re-elected in 1862, and served until 1865.

On July 4, 1864, the Twelfth judicial district was created, and comprised Bremer, Butler, Cerro Gordo, Floyd, Hancock, Mitchell, Winnebago and Worth, but the counties remained connected with their former dis-

tricts, the Tenth and Eleventh, for the purpose of holding court, till January, 1865. On November 8, 1864, Wm. B. Fairfield of Floyd county was elected district judge and John E. Binke of Waverly district attorney. Judge Fairfield was re-elected in 1868, and I. W. Card elected district attorney. In 1870 Fairfield resigned and G. W. Ruddick, of Waverly, was elected to fill the vacancy, and was re-elected up to 1883 as his own successor at the end of each term. By an act of the general assembly passed and approved April 3, 1868, circuit courts were established in this state, and each judicial district was divided into two circuits, in each of which, at the general election in November, 1868, and every four years thereafter, a circuit judge was to be elected. Four terms of court were provided per year in each county in the circuits. By this act the office of county judge was abolished, and all business pertaining to that office was transferred to the circuit court, which was to have concurrent jurisdiction with the district court in all civil actions at law, and exclusive jurisdiction of all appeals and writs of error from justices' courts, mayors' courts, and all other inferior tribunals, either in civil or criminal cases.

Bremer county, together with other counties, made a circuit of the Twelfth judicial district. George W. Ruddick of Waverly was the first circuit judge being elected at the November election in 1868. He served from January, 1869, until October, 1870, when, having been elected judge of the district court, he assumed his higher duties. Robt. G. Reiniger was appointed to fill the vacancy, and was his own successor continually up to 1884. The first circuit term was held at Waverly, commencing February 5, 1869, G. W. Ruddick presiding. Successors to County Judge Jeremiah Farris were George W. Ruddick, Matthew Rowen, George W. Maxfield, D. F. Avery and Louis Case.

BAR OF BREMER COUNTY.

The bar of Bremer county has numbered among its members some who have been an honor, not only to the county, but to the profession and state as well. Among those who have practiced before the courts of Bremer county, and who were resident lawyers, were the following: Phineas V. Swan, George W. Ruddick, G. C. Wright, Benjamin F. Perkins, C. C. Allen, Samuel E. Hoffman, W. W. Fuller, Hiram Shaver, W. A. Stowe, John E. Burke, O. A. Call, Robinson & Hadd, H. P. Brown, W. W. Andrews-Turner-Ezra Carr, Charles B. Parsons, B. F. Thorp, H. A. Miles, Judge O. F. Avery, Wm. P. Harmon, M. W. Anderson and D. W. Coan. Phineas V. Swan was undoubtedly the first attorney to locate in Bremer county, and was the first here admitted to the bar. He came from Vermont, where he had been engaged in the practice of the law, and upon his arrival here, at the first term of court held in the county, was, upon motion of I. M. Preston, admitted to the bar of this state, upon presentation of his certificate.

O. A. Call came to Bremer county at an early day with his parents, and grew to manhood here. About 1870 he commenced reading law with H. P. Brown, finishing up with G. C. Wright, and he was admitted in 1877. He was a young man of rare prospects, and while he remained he had a good practice. He was well posted in law, a good pleader and a very hard student. He started for Florida for the benefit of his health, and died on the way, of consumption.

Others who were among the successful members of the profession were J. K. L. Maynard, A. J. Tanner, Eph. Kinnie, A. H. McCracken, Col. M. E. Billings, H. H. Gray, M. B. Dougherty, A. A. Brown, Geo. E. Walker and Josiah Carpenter.

PRESENT MEMBERS OF BREMER COUNTY BAR, 1906.

D. T. Gibson, Waverly.
E. L. Smalley, Waverly.
E. A. Dawson, Waverly.
J. Y. Hazlett, Waverly.
D. A. Long, Jr., Waverly.
B. E. Sweet, Waverly.
E. A. Sager, Waverly.
F. P. Habemann, Waverly.
F. E. Farwell, Waverly.
O. H. Mitchell, Waverly.
M. M. Kingsley, Waverly.
F. E. Fortner, Waverly.
E. A. Schiefelbein, Waverly.
Wm. R. McClure, Sumner.
W. H. Wehrmacher, Sumner.
B. Stenzel, Tripoli.

BIOGRAPHICAL.

George W. Ruddick was elected judge of the Twelfth judicial district in the fall of 1870, to fill the vacancy caused by the resignation of Judge Fairfield. Judge Ruddick was re-elected several times to the bench. He was born in Sullivan county, New York, May 13, 1835. Until fourteen years of age he remained at home upon his father's farm, his time being spent alternately at work and in attendance of the district school. On leaving home he went to Chester, Ohio, where he attended a seminary one year. Then he went to Kingsville, Ohio, for two years, then removed to Monticello, New York. After remaining there one year, he entered the law office of A. C. Niven, reading law with him for two and one-half years. In the fall of 1855, he entered the Albany Law School, graduating in April 1856. He was then admitted to the bar. In July, 1856, he started West, and August

G.W. Ruddick

18, same year, arrived at Waverly, Bremer county, Iowa. He at once entered upon the practice of his profession, and made Waverly his home up to the time of his death, December 12, 1905. Judge Ruddick was a man of fine legal ability, with a thorough knowledge and understanding of the law, and he made an acceptable judge.

Dwight T. Gibson, in the spring of 1870, opened a law office at Mason City, Iowa, and in 1872 he located at Waverly, where he has continued in practice ever since. He formed a partnership with Mr. Burke, under the firm name of Burke & Gibson. This partnership lasted one year, and at the end of this time the firm was Gray, Dougherty & Gibson for eight years. He then formed a partnership with E. A. Dawson, under the name of Gibson & Dawson, and in 1904 Frank E. Fortner was taken into the firm.

Mr. Gibson was born in South New Berlin, New York, in May, 1843. He was educated at Oxford Academy, New York. He read law in the office of Henry Bennett and Henry R. Mygatt, Chenango county, New York, and finished with Judge C. C. Remington at Baraboo, Wisconsin, and was admitted to the bar in 1868. He followed his profession in Madison, Wisconsin, until he came to Iowa in 1870. He enlisted in Company B, Ninetieth New York Infantry, in September, 1863, and was discharged in May, 1865. In politics he is a republican, but has never held an office of any kind, having given all of his attention to the practice of law.

Edward S. Smalley was born in Pennsylvania, January 23, 1847. He came to Waverly with his parents in 1858, where he has since resided. He read law by himself, and was admitted to the Iowa bar in 1884. He has practiced his profession in Waverly since that time.

J. Y. Hazlett was born in Utica, New York, March 30, 1853. His parents settled in Bremer county, Iowa, in 1860. He graduated from the law department of the Na-

tional University, Washington, D. C., in 1886, and was admitted that year. He has served as county attorney from November 1, 1888, to January, 1893, and from January, 1899, to January, 1903. He was a clerk in the treasury department at Washington from October, 1882, to January, 1887. He is a republican in politics.

Albert M. Potter was a native of Iowa, having been born in Waverly, December 15, 1869. He had a good education, read law with E. S. Smalley and was admitted in 1892. He practiced law one year in Nebraska, returning to Waverly in 1893, when he became a member of the firm of Long and Potter, which continued until the death of Mr. Potter, August 2, 1902. He was city solicitor, and a member of the legislature in 1898. In politics Mr. Potter was a democrat. He was an active member of the Masonic organization.

A. H. Mitchell was born in Ohio, August 23, 1874. His family removed to Vinton, Iowa, in 1878, and he came to Waverly in 1899. He graduated from the Vinton high school in 1891, and he spent two years at Tobin's Academy at Vinton. He read law at the State University, graduating in 1899, and was admitted to practice. He began to practice his profession at Waverly in the spring of 1902, and has served as county attorney since the fall of 1902. In politics he is a democrat.

Edward A. Sager was born on a farm in Bremer county, October 17, 1872. He read law at the State University and was admitted in 1894. In 1895 the firm of Sager & Sweet was formed, and they are engaged in general practice at Waverly.

B. E. Sweet was born December 10, 1867, on a farm in Bremer county, Iowa. He graduated from Cornell College, Mt. Vernon, Iowa, in 1893. He was admitted after reading law at the State University in 1895, and formed a partnership that year with E. A. Sager, which still continues. He was elected to the state legislature

in 1899, was city solicitor three years, chairman of the republican county central committee in 1899, and member of the state central committee 1899-1903.

Frank E. Fortner was born in Waverly, Iowa, January 11, 1875. He read law with Gibson & Dawson, and graduated from the University of Iowa in 1904. He is a member of the firm of Gibson, Dawson & Fortner.

Daniel A. Long was born and reared on a farm near Waverly, Iowa, November 5, 1866. He took a collegiate course at the state university and was graduated in 1887. He read law with Gibson & Dawson and was admitted in 1890. He has been continually in practice at Waverly since that time. He was county attorney from 1894 to 1899.

M. M. Kingsley was born in 1876, at Waverly, Iowa. He read law at Ann Arbor, Michigan, and was admitted in 1903. He is a member of the firm of Long and Kingsley.

E. A. Dawson was born in Newton Falls, Ohio. He passed his boyhood upon a farm in Butler county, Iowa. He was educated in the country schools and at the Upper Iowa University, Fayette, Iowa. He read law with Gray, Daugherty & Gibson at Waverly, Iowa, and was admitted to practice his profession in 1879. He began to practice with Call, Carr & Dawson, then as Call & Dawson. He now is of the firm of Gibson & Dawson. He is a member of the Masonic order. He has served as public prosecutor of Bremer county and has been railroad commissioner about eleven years. In politics he is a republican.

BUCHANAN COUNTY.

HISTORICAL.

The first term of the district court in and for Buchanan county, Iowa, was held on the 27th day of April, 1849. The judge was James Grant, clerk, Semore P. Stoughton, sheriff, Eli D. Phelps. There were no resident attorneys at Independence at that time. The attorneys from

abroad at that term of court were Norman W. Isabell, Benjamin Samuels, Amos K. Eaton, C. C. Rockwell, George Smith and Isaac M. Preston. There were eight cases on the calendar, none of which seem to have been of any particular account as, there is but one trial mentioned on the record.

The second term of court was opened the 26th day of April, 1850. The judge was James Grant, clerk, Semore P. Stoughton, sheriff, N. W. Hatch. The case of Wm. W. Hadden v. David S. Davis was tried.

The next term was on the second day of May, 1851. The judge was James Grant, clerk, Edward Brewer, sheriff, N. W. Hatch. The record does not show any business done at that time that was of any particular interest. One man was tried for perjury and was acquitted. Another plead guilty to forgery. This seems to have been all that was done.

The next term of court opened the 27th day of June, 1852. The judge at that time was Thomas S. Wilson, clerk, Edward Brewer, sheriff, Norman Pickett. At that time Daniel S. Lee and Summer S. Allen were admitted to practice. They seem to have been local attorneys.

The next term of court was the 23d day of June, 1854. The judge was Thos. S. Wilson, clerk, Edward Brewer, sheriff, Eli D. Phelps. At that term, on motion of Isaac M. Preston, Andrew J. Tanner, Jerome S. Woodward, David S. Deyo and James Jamison were admitted to practice. At the April term, 1856, Charles F. Leavitt. Lorenzo Moore and Cornelius Hedges were admitted to practice. At the September term, 1857, C. E. Lathrop was admitted. On the 19th day of March, 1858, Jed Lake, J. M. Kelly, W. S. Marshall, Carlos A. L. Roszell and Oliver H. Roszell made application to be admitted to practice. A commission was appointed to examine the applicants. The committee reported favorably, and the applicants were sworn in.

During the year 1858 the litigation in this county increased rapidly. The panic of 1857 proved too serious for many persons. There were many suits on notes. Those who had mortgages to secure their claims foreclosed them. A number of new lawyers came to Independence, among them Alex. B. Lewis. The officers of the court continued the same. T. S. Wilson of Dubuque was judge, Edward Brewer, clerk. The latter held the office of clerk for twenty-two years. There were no cases of note tried here.

When the war came on and President Lincoln made his first call for three year troops, Daniel S. Lee, William S. Marshall and A. B. Lewis went into the army. When the second call for three year men was made, Carlos A. L. Roszell, Wm. G. Donnan, Jed Lake and Herman C. Hemenway enlisted.

During the war Thomas S. Wilson was defeated in election for judge by James Burt of Dubuque. Judge Burt held the position for eight years. He was succeeded by John M. Brayton, of Delaware county, who held the position for something over two years, when he resigned. The position interfered with his private business. David S. Wilson, of Dubuque, was appointed by the governor to fill the vacancy, and was elected for the succeeding term.

In the meantime the legislature authorized a circuit court in the state, giving two circuits in each district. Wm. Barker was judge of the Eastern circuit and Sylvester Bagg was judge of the Western circuit in this district. This circuit court was retained for about eight years, when it was legislated out.

Sylvester Bagg, of Waterloo, was elected district judge to succeed D. S. Wilson.

During these changes there were many persons who began the practice of law in this county, remained awhile and then went away. Among those was Frank Jackson,

who afterwards became secretary of state and then governor.

The attorneys who took the leading practice here were James Jamison and Jerome S. Woodward. They were personally good friends, but generally on opposite sides in the trial of cases. Many amusing passages occurred between them. One which created amusement at the time was a case in which a man had made a bill of sale to his son-in-law. Woodward was trying to get the sale set aside. Jamison was defending. In his speech to the jury, Woodward said that it was common for men to come to his office and to Jamison's and other attorneys (naming several), and ask how they could fix their property so it could not be taken to pay their debts, and claimed that this was a case where Jamison had made the bill of sale for that purpose. He made quite an argument on that point, showing by the papers that the bill of sale was made by Jamison and acknowledged before him. Jamison was a very deliberate speaker. He never was hurried in his argument to the jury. After going over the case, he came to the assertions of Woodward about the fraudulent bill of sale. Making one of his peculiar gestures with his left hand he said: 'Gentlemen, when a man comes to me and asks how he can fix his property so it cannot be taken to pay his debts, I say to him, 'Sir, I am not the rogue's lawyer, go to Woodward.'" This caused a big cheering by members of the bar and the audience. The judge could not help smiling, but he called for order and directed the sheriff to keep order in the court.

At another time they were trying a replevin case. It was a case in which the statute expressly provided that it could not be maintained unless the plaintiff had demanded the property and the defendant had refused to give it up. Woodward was for the plaintiff and Jamison defending. The petition did not allege a demand, and the plaintiff

did not attempt to prove one. Generally these two were getting jokes on each other. Woodward tried several times to get Jamison out on some joke, but he was very glum. Several times Woodward accused him of acting like a bear with a sore head. Jamison would only make snappish retorts. When the judge charged the jury he stated the law, that a demand was necessary to be made, alleged in the petition and proved on the trial. If they did not find such demand made and alleged and proved, their verdict must be for the defendant. Woodward started up with an attempt to make some statement. The judge quietly remarked: "Mr. Woodward you have argued the case, you cannot be heard again." As Woodward sat down Jamison, with a broad grin and in his mildest manner, said: "Jerome, now you see why I acted like a bear with a sore head." All the members of the bar were convulsed with laughter and the judge wore a benignant smile. Jamison died in August, 1878, and Woodward in May, 1895. No attorneys have filled their places in creating amusement for the court and spectators.

After the war was over, Daniel S. Lee, W. G. Donnan, H. C. Hemenway and Jed Lake returned to Independence and resumed the practice. Lee died a few years later.

W. G. Donnan and his brother, J. B., started an abstract office. W. G. was in political life. He was elected state senator from this and Delaware counties two terms. He was elected to congress two terms for the third district. He is now president of the First National Bank of Independence.

Merritt W. Harmon came here from Hopkinton in Delaware county. He had served three years in Company K. of the 21st Iowa Infantry. He read law and was admitted to the bar here, and in 1870 formed a copartnership with Jed Lake. This is still in existence. Mr. Lake now says of the business: "I am getting old and lazy, so Harmon has to do the hard work." Mr. Harmon has

served as state senator three terms. He is now referee in bankruptcy, and continues the practice in the state and federal courts.

In 1878 the firm of Wm. D. Andrews & Brother, of New York City, commenced suits in the United States circuit court at Des Moines against some three hundred persons for infringement of the Driven Well Patent. The parties sued in Buchanan, Blackhawk and Fayette counties employed Lake & Harmon to defend them. After a contest that lasted nine years, and finally ended in the United States supreme court, the patent was held invalid. In 1888 the legislature passed a resolution thanking Col. Jed Lake for his work in defeating the patent and saving the people of the state of Iowa more than a million of dollars.

John J. Ney was admitted to practice in this court, and was elected judge of this district, which he held one term. He moved to Iowa City during the time.

Charles E. Ransier was admitted to practice in the courts in this county. He has lived here ever since. He has enjoyed a good practice. He has been prosecuting attorney two terms. He was elected district judge in November, 1906.

Our present judges are A. S. Blair of Delaware county and F. C. Platt of Black Hawk county.

Those who have been attorneys and had some practice here, and not named heretofore, are J. E. Cook, E. B. Abbott, H. W. Holman, E. E. Hasner, Frank Jennings, J. H. Williamson, E. M. Thompson, James E. Jewell, L. F. Springer, C. F. Everett, R. E. Leach, M. A. Smith, H. C. Chappell, R. A. Cook, Charles Young and R. J. O'Brien. These, with those heretofore especially mentioned, constitute the persons who have been and are connected with the bar of this county. We had only one of our men elected judge, John J. Ney.

H. W. Holman was elected prosecuting attorney in

JED LAKE.

addition to the others named. M. A. Smith, who was born in this county and has always lived here, is now the county attorney.

It is possible that I have not mentioned all the incidents that would be interesting to note, but I do not think I have omitted anything that would be of general interest. I may have omitted the names of some, but have aimed to give all a place in the record.

BIOGRAPHICAL.

H. C. Chappell was born in Keokuk, Iowa, in 1870. He attended schools of Keokuk, and came to Independence in 1892. He read law with Chas. E. Ransier and was admitted to the bar in 1896 at Des Moines. He was appointed deputy clerk of the district court of Buchanan county in 1894; was elected clerk in 1896, and re-elected in 1898. He was elected city solicitor in 1903, and is now serving his second term.

Chas. M. Young is a native of Iowa, being born in Jesup, Buchanan county, June 8, 1879. George W. and Mary E. (Bailey) Young were his parents and he resided on his father's farm until he was 17 years old. He graduated from the Jesup and Independence high schools. He spent two years at Storm Lake, Buena Vista College, he then attended Capital City Commercial College, and graduated from the Drake University law department in 1902, and was admitted. He began to practice at Jesup, where he remained one year; then he removed to Independence and became associated with C. E. Ransier in general practice.

Jed Lake was born in New York State, November 18, 1830. He came to Buchanan county at the age of twenty-five. He was educated in the common schools and at the Cortland Academy, at Homer, New York. He read law with C. H. Lathrop, Independence, was admitted to practice his profession in 1858, and has been continually in practice at Independence, Iowa, since that time, except

about three years during which he served as lieutenant-colonel in the 27th Iowa Volunteer Infantry, 1862-1865. Since 1870 he has been in partnership in the practice of law with W. H. Harmon, as Lake & Harmon. He was elected to the legislature in 1861, and served one term.

E. E. Hasner was born in New York State, February 21, 1848. He came to Iowa in 1866; was admitted to the bar in 1873; began to practice his profession at Independence that year, and has been in general practice here ever since. He served fifteen months in the 8th New York Cavalry during the Civil War. He was inspector-general of the Iowa State National Guard two years,—the first term of Governor Boies. He has been associated with a number of important cases in Black Hawk county.

Charles E. Ransier is a native of Madison county, N. Y., and was born April 4, 1854. He came with his parents to Independence early in life, and there obtained his schooling, commencing the study of law with James Jamison, on his twentieth birthday.

Admitted to practice on the 6th of May, 1876, Mr. Ransier continued alone until 1895, when he formed a partnership with C. L. Everett, under the firm name of Ransier & Everett. In 1878-81 he served as city attorney of Independence and in 1892-98 as county attorney of Buchanan county. In 1900 he served as district delegate to the Republican National Convention at Philadelphia.

In November, 1906, he was elected judge of the Tenth judicial district.

BUENA VISTA COUNTY.

HISTORICAL.

The county was first organized late in 1858, or early in 1859, with the following officers: A. T. Reeves, county judge; Wm. R. Weaver, treasurer and recorder; John W. Tucker, clerk, and Abner Bell, sheriff. The county-seat was located in 1860 by a commission consisting of John Kindlespeyer and a Mr. Sautel. They located it on a tract

CHARLES E. RANSIER.

of land known as the "Fuller Claim" at that time occupied by Wm. S. Lee, who gave the county a bond for a deed to the 40 acres in section 18, 93, 36, in the north part of the county. The place was known for some time as "Prairieville" or "Leesburg," the county-seat of Buena Vista county, but no buildings were erected. Early in 1869 the county-seat was moved from "Prairieville," where it had existed in name only, to Sioux Rapids, where a court house was built and the records kept. In 1878 the question of removal of the county-seat to Storm Lake was submitted to a vote of the people and carried. To aid in the move, the citizens of Storm Lake put up a building 30x36, and two stories high, and donated its use to the county for a court-house for the term of ten years.

THE BAR.

The members of the Buena Vista bar are as follows: Hon. A. D. Bailie, H. F. Schultz, T. H. Chapman, C. F. Aikin, Edson & Moulton, Mack & De Land, F. F. Faville, J. E. Buland, A. L. Zinser, A. L. Whitney, F. H. Helsell, D. F. Johnston, A. L. Freelove, S. E. Stanfield, J. C. Moats, G. E. Mack, and C. L. Ward.

BIOGRAPHICAL.

Arthur D. Bailie, judge of the Fourteenth judicial district, is a native of Illinois and was born in Mason, Effingham county, July 1, 1857. He was educated in the common schools of his native town, attended the Illinois State Normal school for a short time, and studied in the office of Wood Brothers at Effingham. On November 7, 1881, he was admitted to the bar by the supreme court of Illinois, and during the same year removed to Storm Lake, Iowa, where he has since resided. Mr. Bailie was the first county attorney of Buena Vista county, serving one term and declining a renomination. He has also served as mayor several terms and is now judge of the Fourteenth judicial district.

Frank H. Helsell was born at Millersburg, Ohio, June 9, 1858. In 1863 he removed with his parents to Iowa, residing most of his boyhood at Iowa City and Clarence. Graduating from the high school of Clarence, he spent one year at the Agricultural and four years at Carthage College, Illinois. He read law at Hillsboro, Illinois, Odelbolt, Iowa, and different places while teaching. He was admitted before the Illinois supreme court in 1880, and to the Iowa bar the same year. He located in Sioux Rapids for the practice of his profession and has been in active business since. Judge Helsell's professional work was chiefly conducted for the Chicago & Northwestern Railroad company, and for a line of banks, which he was identified with, as well as the trial of the more important criminal cases within his judicial district. He has always been a republican and was appointed judge of the Fourteenth judicial district of Iowa and then elected. He was nominated again and declined. He was twice a delegate to the national republican convention, in 1888 and 1896.

Lot Thomas was born October 17, 1843, in Fayette county, Pennsylvania. He worked on his father's farm in Pennsylvania, and in 1868 he removed to Iowa, teaching school in Warren county. He read law part of the time, and in 1870 he entered the law department of the State University. He graduated and was admitted to the bar. He moved to Storm Lake and began the practice of his profession. In 1884 he was elected judge of the Fourteenth judicial district serving by re-election until 1898, when he resigned in August, to accept the republican nomination for congress in the Eleventh district. He was elected, and re-elected at the close of his first term.

Frederick F. Faville was born in Mitchell, Iowa, June 5, 1865. He spent his early life on a farm in Mitchell county, Iowa, and was educated in the public schools, Cedar Valley Seminary, Osage, Iowa, Iowa State College, Ames, University of Maryland, Baltimore, and the State

University of Iowa, and was admitted at Iowa City in 1891. He practiced law in Des Moines from September, 1891, to April, 1892. Then he removed to Sioux Rapids, Iowa. In 1894 he was elected county attorney of Buena Vista county, and removed to Storm Lake in the spring of 1895, where he has practiced since. He is a member of A. F. & A. M. Blue Lodge and Chapter. He served as county attorney from 1895 to 1899. He is a republican and was presidential elector from the Eleventh congressional district of Iowa in 1904.

Henry F. Schultz was born in St. Louis, Mo., January 14, 1861. He passed his boyhood in Hardin county and Iowa Falls, attended the common schools of Alden, Iowa, read law at the State University, and was admitted in June, 1888. He was prosecuting attorney of Buena Vista county six years. He was in partnership with Judge F. H. Helsell for six years, until October, 1906, and then the firm was dissolved, and he has since been alone in the practice. In politics he is a republican.

BUTLER COUNTY.

HISTORICAL.

In 1853 Judge Roszell of Buchanan county appointed John T. Barrick, D. C. Overman and Wm. G. Payne as commissioners to organize the county of Butler and for the location of a county-seat. In the following August, the same magistrate ordered an election for Butler county, which was then under his judicial jurisdiction. George W. Poisal was elected county judge, and other officers were elected but none qualified because there was "no money in it." Soon after this Butler was detached from Buchanan and attached to Black Hawk, which had been recently organized. Pursuant to the order of Judge Knapp of Black Hawk county, a second election was held August 24, 1854, when John Palmer was elected judge and W. E. Burton, clerk, Harlan Baird, prosecuting attorney. He failed to qualify and Aaron Van Dorn was

appointed to fill the vacancy. April 16, 1857, James D. Thompson, of Hardin county, was elected judge, and commissioned July 1. Prior to this time there had been no court held in the county.

The first term of district court was held in October, 1857, in a school house at Clarksville. At this term of court James R. Fletcher and C. A. Bannon were admitted to practice as attorneys before the court. During this term W. R. Jamison, John Palmer, Orson Rice and Geo. A. Richmond were admitted to the bar as full-fledged lawyers. In 1858 E. H. Williams was placed on the bench over this district, and held the first term in July, 1859. Judge Williams served through this term and was re-elected in 1862, and served until 1866. In the meantime the district was divided and Butler was made a part of the Twelfth district, and the Hon. W. B. Fairfield was elected judge. He held his first term in 1865, and resigned in 1870. Hon. Geo. M. Ruddick, who had been serving as circuit judge, was upon petition appointed district judge, and held his first term in October, 1871. In 1872 he was elected, and held the office until 1876, when he was re-elected and again in 1880.

The first county judge who qualified was John Palmer who was elected at the organization of the county in 1854. He held the first term of court and transacted the first official business of Butler county. He served one term. In 1855 Aaron Van Dorn was elected judge, and held the office one term. The next election for this office was held in 1857, and was very close, considerable feeling being manifested in regard to it. The candidates were Alonzo Converse and Geo. W. Poisal, and the former was elected by a majority of 8. The law required that in case a judge did not qualify within twenty days after election the office is vacant. It seems that Mr. Converse did not make his appearance within twenty days, the last day coming on Sunday, and he arrived on the following Mon-

day; but the former judge refused to allow him to qualify, claiming his time had expired, and forthwith issued another call for an election to fill the vacancy. This resulted in the election of D. W. Miller, who at once qualified. Converse at once commenced a contest, which resulted in his election being sustained, and Miller withdrew. Judge Converse served his first term, was re-elected and served until 1861.

In the fall of 1861 C. A. Bannon was elected judge and served for two years. J. R. Fletcher was the next county judge, elected in fall of 1863, and served one term, till 1865. Ancel Durand was judge for one term—1867 to 1869. In the fall of 1865 A. J. Thompkins was elected judge, and he served one term.

On the first Monday in January, 1869, the circuit court was established and took control of the probate business, while the issuing of marriage licenses was left with the clerk of court. The county judge was dispensed with and made county auditor. The circuit court district is what is known as the Twelfth judicial district, the same as district court, and embraces Butler, Bremer, Mitchell, Worth, Cerro Gordo and Hancock. The first circuit judge was Geo. W. Ruddick. He was elected in 1868, commencing official work in January, 1869, and he held the office until after the spring term in 1871, when he received the appointment of district judge. He was succeeded on the bench of circuit court by Judge Reiniger, who served many years.

THE BAR.

There have been, and still are, able and prominent men practicing before the courts in Butler county; men who were an honor to the profession, to society and the county. Among these are: M. M. Trumbull, J. R. Fletcher, C. A. Bannon, John Palmer, Orson Rice, Geo. A. Richmond, W. R. Jamison, J. W. Davis, Zur Graves, L. A. Orvis, Alonzo Converse, C. A. L. Roszell, W. A.

Lathrop, C. M. Failing, J. W. Gilger, John Jamison, D. J. Marts, Soesbe Bros., C. M. Greene, W. M. Foote, F. D. Jackson, William Norval, R. D. Prescott, Col. Woods, Mr. Burnell, J. H. Boomer, D. W. Mason, Geo. M. Craig, N. T. Johnson, O. B. Courtright, Mr. Ellsworth, A. I. Smith, G. A. McIntire, O. H. Scott, John Bremer, Sawyer Haswell, W. H. Burdick, M. J. Downey, E. E. Savage, B. L. Richards and W. S. Montgomery.

BIOGRAPHICAL.

Mathew M. Trumbull was the first attorney to locate in Butler county, for the purpose of practicing the profession. He was a native of England, coming to Iowa in 1852, settling in Linn county, where he studied law and was admitted to the bar. In 1854 he located at Clarksville and commenced practice, where he remained till the war in 1861, when he enlisted in Company I, 3d Iowa Infantry. He was made colonel of 9th Cavalry at the close of the war, and was discharged as brigadier-general of volunteers. On his return he settled at Waterloo and resumed the practice of law. Within a few years he removed to Dubuque, where he was made collector of internal revenue for a number of years. Resigning, he removed to Chicago, where he practiced law. He was a kind generous-hearted man, of good impulses and a great deal of integrity. The following story is told, by which the general had a joke, by accident, turned upon himself: One day in the early fifties he had occasion to try a case before one of the justices of the peace. In those days the justices, or as they were termed the "squires," were rather illiterate as a rule, not knowing any more of law than they did of genealogy, and this one was no exception to the rule; but they almost invariably, if not befogged by counsel, made rulings based on common sense, law and the statutes to the contrary notwithstanding. In the case in question the opposing counsel was Orson Rice.

Mr. Rice was in a sort of contrary mood this morning, and kept making objections to testimony, finding something wrong with proceedings, taking exceptions to the rulings and interrupting his Honor and every one else. After a time the general called the attention of the court to the interruptions of proceedings. Finally, his Honor straightened up, raised his fist and bringing it down with a thump on the table exclaimed pompously: "Mr. Rice you sit down!" Mr. Rice paid no attention, but kept right on talking regardless of anyone. The general saw that the "squire" was getting excited, so he said to him: "I wouldn't stand it; I'd make him keep quiet." Rice paid no attention. This was too much for his Honor, who, with blood in his eye and shaking his finger at Rice sinisterly, hissed: "Mr. Rice, you sit down or I'll put a quietus on you!" "Yes," interposed Trumbull, with a twinkle in his eye, "that's just what he wants, a quietus writ will put a stop to it." Rice soon again interrupted, and the justice, now fairly enraged, ordered: "Mr. Trumbull, you make out that writ of quietus at once; we'll see who's bossin' this court!" The story leaked out, and the general many times was called upon to answer a joking query as to the "writ of quietus."

Trumbull was elected to the lower house of the state legislature in 1858, and was the first member elected from Butler county.

J. R. Fletcher came to Butler county in the fall of 1859 from Pennsylvania, where he was educated and admitted to the bar as a lawyer at Bedford. He came to Iowa as a young man, and his education made a brilliant future possible. But he liked his ease, and after a few years of limited practice he began devoting part of his attention to stock. He served one term as county judge. In 1881 he got an appointment to a clerkship in the pension bureau, at Washington.

John Palmer was a native of Ohio, coming to Iowa in

1849 or 1850, and locating in Linn county. He was the first judge of the county, and an able lawyer.

E. W. Soesbe was born near Anamosa, November 1, 1851. He read law with his brother, S. W., at Waverly, and was admitted there in March, 1877. The Soesbe brothers were good lawyers and intelligent and popular gentlemen.

W. A. Lathrop, one of the first practitioners in this county, was born in New London, Conn., in 1826. He studied law with Judge Dwight Loomis of the supreme court of Connecticut, and was admitted in 1857. He went to Illinois the same year, and practiced two years at Elmwood, Peoria county, when he returned to his native state and engaged in teaching school. He came to Butler county in 1860 and located at Butler Center, and resided there till the county-seat was removed to Allison, when he took up his residence there. He was county superintendent of schools four years and member of the Tenth general assembly.

Frank D. Jackson established practice at Greene in July, 1880. He was secretary of the senate, having been appointed to that position in January, 1882. He was born in Wyoming county, New York, in 1854. He was for some time a student at Arcade Academy. He came to Iowa in 1867 and for three years was a student at the State Agricultural College. He graduated at the law department, State University, in 1875, began practice at Independence, remained there five years, and then located at Greene, where he succeeded J. W. Gilgan. A man of culture, of much native ability and of prominence in his profession.

Geo. M. Craig was born June 18, 1844, in Waukegan, Illinois. He was educated in the common schools of his native place. He came to Butler county in October, 1864; read law at Butler Center, was admitted at Grundy Center, Iowa, in January, 1873, and began to practice his

profession soon after his admission, at Butler Center. He moved to Allison, Iowa, in January, 1881 (the county-seat being removed from Butler Center to Allison). Mr. Craig has continued in practice in the county-seat town since that time. He enlisted as a private in Company H, 88th Illinois Volunteer Infantry, and was discharged August 1, 1864, on account of a gun shot wound received at Chickamauga. A republican in his political views, he served as recorder of the county from 1867 to 1872, and was a member of the senate in the twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth and twenty-ninth general assemblies of the state of Iowa.

He occupied the position of assistant adjutant-general of the Iowa National Guards.

The active members of the Butler county bar are as follows: Geo. M. Craig, N. W. Scovel, Elder & Shepard, C. G. Burling, M. Hartness, C. M. Greene, G. A. McIntyre, Edwards & Camp, W. T. Evans, D. Voogd and F. J. McGreevy.

CALHOUN COUNTY.

HISTORICAL.

The county was organized in August, 1855, by Judge Phillips, of Green county. The first election was held that month, at which nine votes were cast and the following officers elected: Peter Smith, county judge; C. Smith, treasurer; Joel Golden, clerk; E. Vanhorn, recorder; E. Comstock, prosecuting attorney, and Wm. Oxenford, sheriff. Two men had to be private citizens and go without offices; all others in the county were county officials. The county-seat was made by a commission appointed by Judge C. I. McFarland, and consisted of Wm. Phillips, John F. Howes and Rufus Keigley. They performed their duty in October, 1855, selecting a location on section 34, township 87, range 33, and naming it Brooklyn. No buildings were erected there, it being a county-seat on paper only. In April, 1856, an election was held at the

house of Peter Smith, to vote on the question of relocating the county-seat on what was afterwards the site of Lake City. Twenty-one votes were cast, all for removal. The new location was surveyed and platted into village lots by Chas. Amy, and the place named Lake City, as before mentioned. In 1858 a courthouse was built at a cost of $1,100. On September 10, 1877, the county-seat was removed to Rockwell City.

THE PRESENT BAR.

The attorneys of Calhoun county are as follows: E. C. Stevenson, Wm. Towers, M. W. Frick, J. F. Lavender, M. E. Mack, F. F. Hunter, A. A. Brown, L. H. Fouts, J. M. Tolliver, Gray & Gray, J. B. McCrary, V. P. McManus, L. W. Moody, Hutchison & Jacobs, I. E. Dougherty.

BIOGRAPHICAL.

Evan C. Stevenson was born in Georgetown, Kentucky, November 30, 1858. He passed his early life on a farm, obtained a good common school education and then took a regular course and graduated at Georgetown, Kentucky, College. He read law in his father's office in his native town, and having removed to Iowa, farmed two years in Page county, and was admitted at Clarinda in 1880. He has been in practice in Calhoun county, Iowa, twenty-three years, and served six years as county attorney, three terms as mayor of Rockwell City and has been local attorney of the Illinois Central, the C. M. & St. Paul, and the C. R. I. & P. railroad companies.

Maxwell W. Frick was born on a farm in Boone township, Dallas county, Iowa, October 27, 1859, educated at the district school, Adel high school and Iowa Business College, Des Moines. He read law while he was teaching school in Dallas county, and in the law school in Des Moines, conducted by the late Judge W. E. Miller, which was in the fall of 1880 and early winter of 1881, and fin-

ished in the office of M. H. Baugh, Adel, Iowa; was admitted February 3, 1881. He began to practice at Adel, with M. H. Baugh. After a few months Mr. Frick withdrew from the firm and September 21, 1881, he settled at Rockwell City, Iowa, where he has been engaged in the law business for twenty-six years.

James F. Lavender was born March 24, 1851, in Rochester, New Hampshire. In 1863 his parents settled in Scott county, Iowa, on a farm, where our subject remained until 1867. From 1867 to 1870 he worked on a farm in Poweshiek county, Iowa. He then removed to Davenport, attending school there, and later at the Iowa Agricultural College, at Ames. He read law in the office of Cook, Richman & Bruning, then with Brown & Campbell, Davenport, and later with Wilson & Lawrence, Minneapolis, Minnesota. He was admitted before the supreme court of Minnesota, October 5, 1880; circuit court, of Scott county, Iowa, December 13, 1880; United States district court of Iowa same time. He began to practice in April, 1881, at Rockwell City, and was a member of the firm of Stevenson & Lavender from January, 1890, to January, 1900. He was elected by the republicans as representative from Calhoun county to the twenty-sixth and twenty-seventh general assemblies.

CARROLL COUNTY.

HISTORICAL.

The first election was held at the home of Henry Coplin, in the southeasterly part of the county, August, 1855. The following officers were elected: A. J. Cain, county judge; Levi Thompson, clerk; James White, treasurer and recorder; Robt. Lloyd, surveyor; L. M. Curdy, attorney; J. Y. Anderson, sheriff. At this time the population of the county was about 100. A term of court was held by Judge M. F. Moore in November, 1858.

THE BAR.

The attorneys of Carroll county are as follows: Hon. F. M. Powers, judge; W. C. Saul, Geo. W. Paine, Lee & Robb, Jos. M. Drees, O. W. Emmons, Geo. W. Bowen, Salinger & Korte, F. A. Charles, Kitt W. Marean, E. A. Wissler, M. W. Beach, Reynolds & Myers, Douglas Rogers, H. W. Macomber, J. W. Lee, M. M. Cooney and M. A. Hoyt.

BIOGRAPHICAL.

George W. Paine, late district judge, was born May 8, 1828, in the town of North East, Dutchess county, state of New York. He spent his boyhood until sixteen years of age on the farm where he was born. He attended district school half a mile from the old homestead, and later the Amenia Seminary, three and a half miles distant. He read law with Hon. John H. Hubbard at Lakeville in the town of Salisbury, Litchfield county, Connecticut. At twenty years of age he was with Hon. John J. Morell at Newburgh, N. Y., for six months, and lastly at the State and Normal Law School of Ballston, N. Y. He was admitted at Albany, N. Y., May 7, 1849. On July 1, 1849, he commenced his practice at Poughkeepsie, N. Y.; September, 1850, he removed to Washington Hollow, the agricultural center of Dutchess county, and place of holding the county fair and political conventions. March 15 he returned to Poughkeepsie and practiced twenty-three years in the state of New York, thirteen of which were in the city of New York. He came west on account of his health and located in Carroll, Iowa, in 1872, following his profession for the past thirty-four years.

Henry W. Macomber was born in Redfield, Me., November 25, 1840. The family subsequently removed to Milo, where the boy clerked in his father's store, and upon the breaking out of the Civil War joined Company D, Second Maine Volunteer Infantry, in 1861, as a private.

Afterwards he was quarter-master sergeant of the regiment until discharged by reason of injury. He was admitted to practice in Tipton, Iowa, in 1874, and began his practice in Carroll the same year. His son, Frank L., was a partner with him for about two years. He removed to Chicago in 1888, and his son, Charles C., was taken into partnership for a short time, when he too moved to Chicago. He has confined himself to professional work, having been induced to accept such local offices as member of the school board and to identify himself with enterprises associated with the well-being and growth of Carroll.

Frank M. Powers, judge of the Sixteenth judicial district, was born September 4, 1853, in West Troy, N. Y. He spent his early life on a farm in Black Hawk and Buchanan counties, Iowa. He was educated in the public schools and Iowa State University at Iowa City. He read law at Iowa City and Independence, and he was admitted in the last named place in 1878. He formed a partnership with J. R. Powers at Carroll, Iowa, under the firm name of Powers & Powers, which continued for ten years from 1879 to 1889. J. N. Powers removed to Salt Lake City, and the subject of this sketch continued alone in practice until January 1, 1903, when he went on the district bench. He is now serving as judge, having been re-elected in 1906. In his political views he is a republican.

George W. Bowen was born in Michigan, March 4, 1854. He was admitted at Denison, Iowa, April 12, 1878, and began his practice at Carroll, August 7, 1878. He is general attorney for the Bankers' Mutual Casualty Company of Des Moines and the Aetna Indemnity Company of New York, and handles their cases anywhere in the United States. He was a member of the old Company E, Iowa National Guards, and is now a member of the Knights of Pythias, the Red Men and the Brotherhood of American Yeomen. He has been city attorney of Carroll

for fifteen years and never had a judgment rendered against the city.

Edwin A. Robb was born in De Witt, Iowa, December 14, 1869. He was on a farm in Clinton county until nine years of age and in Crawford county, Iowa, from nine to seventeen years of age. He read law at the State University of Iowa and was admitted in 1894. Mr. Robb is a partner with W. R. Lee at Carroll, Iowa.

B. I. Salinger was born in Germany May 13, 1860, and was admitted to the Iowa bar in 1883. In politics he is a republican, and was supreme court reporter for eight years.

He resides at Carroll, Iowa, where he is engaged in the practice of law.

William R. Lee was born on a farm in Dallas county, Iowa, November 11, 1860. He was educated at the common schools, and at Cornell College at Mt. Vernon, Iowa. He read law in the offices of Judge A. Howat and Hon. U. A. Merrell in Clinton county, Iowa. He was admitted at Winterset, Iowa, April 11, 1884, and began his practice at De Witt, Iowa, with Mr. Merrell. In 1888 he removed to Sioux City. In the fall of 1891 he changed his location to Carroll, Iowa, where he formed a partnership with E. A. Robb, in 1894, which exists at this time.

CASS COUNTY.

HISTORICAL.

The county was organized in 1853. The first officers were Jeremiah Bradshaw, county judge; V. M. Conrad, treasurer; C. C. Woodward, clerk; F. E. Ball, sheriff; L. M. Mills, drainage commissioner; David Chapman, surveyor; J. N. Benedict, coroner; H. L. Bradshaw, assessor, and T. N. Johnson, supervisor. The county-seat was located at Lewis on March 11, 1853, by Thomas G. Palmer and Milton Richards, commissioners. In November, 1869, the county-seat was moved from Lewis to Atlantic.

THE BAR.

The attorneys of Cass county are as follows: Julian Phelps, Ezra Willard, J. B. Rockafellow, T. B. Swan, C. A. Meredith, John W. Scott, H. M. Boorman, H. A. Disbrow, James B. Bruff, L. H. Pine, James E. Bruce, C. B. Clovis, D. M. Reynolds, D. F. Harding, E. M. Willard, C. A. Grubb, Geo. E. Pennell, W. A. Follett, B. N. Wood, S. H. Rudolph, C. D. Brown, C. A. Savery, B. A. Goodspeed, Guy A. Curtis, J. C. Bryant, C. L. O. Knopp, W. C. Bryant, W. E. Haynes, A. H. F. Zeigler, F. J. Macomber and G. L. Scovill.

BIOGRAPHICAL.

Ezra Willard was born in Wyoming county, New York, December 22, 1840. He removed to Adel, Iowa, from Elkhart, Ind., in 1864, and then to Atlantic in 1881. He read law and was admitted to the Indiana bar in 1861, and to the Iowa bar in 1864. He was in the Civil War from 1861 to 1863. He is engaged in general practice with his son, E. M., under the firm name of Willard & Willard.

Edward M. Willard was born in Adel, Iowa, May 24, 1865. He read law with his father and one year at the University of Iowa, and was admitted before the supreme court, at Iowa City, June 21, 1887. He is engaged with his father in the practice of law at Atlantic. He has served six years on the school board, four of which he was the president.

William A. Follett was born in Marion county, Iowa, October 16, 1869. He remained on his father's farm in Marion county until twelve years of age, and then he went with his father to Washington, Kansas, and resided there until July, 1890. He received his education at the district schools and at Ottawa University, Kansas. He read law in the office of H. G. Curtis in Atlantic, Iowa, and in 1893 passed an examination and was admitted at Des Moines. He at once became associated with his

former preceptor, which association continued until the death of Mr. H. G. Curtis, and then the firm became Follett & Curtis. Mr. Guy A. Curtis is the junior member, and they are engaged in general practice at Atlantic.

James E. Bruce is a native of Iowa, having been born in Brooklyn, April 14, 1860. He received a common school education in that part of the state, and after graduating from the law department of the State University at Iowa City in 1881, commenced the practice of law at Anita, Iowa. He was junior member of the firm of Swan & Bruce from 1891 to 1901 at Atlantic, Iowa, and has been the senior member of Bruce & Zeigler from 1897 to 1907 at Anita, Iowa. For the past five years Mr. Bruce has been in the banking business, though continuing the practice of law at his home in Atlantic.

Joseph B. Rockafellow was born in Fulton county, Illinois, January 29, 1851. When Joseph was five years old the family moved to Galva, Illinois, and there he passed his boyhood and went to school until he graduated from the Galva high school. He read law at the Union College of Law at Chicago, now the law department of the Northwestern University, where he was graduated with the class of 1875. He was admitted in the district court of Iowa in August, 1875, and to the supreme court of the United States January 22, 1901, and the United States circuit court of appeals in January, 1905. He has been in active practice at Atlantic since 1875, and gives considerable attention to corporation practice. In 1886 he formed a partnership with John H. Scott, which was carried on successfully until 1894, when the firm was dissolved, and Mr. Rockafellow has been in practice since that time alone. He served as the first city attorney after Atlantic became a city, and revised its city ordinances. He is referee in bankruptcy and president of the library board. He belongs to the Masonic order, is a member of Kedron Commandery, No. 42, at Atlantic.

John W. Scott was born in Ohio in February, 1843. He came to Atlantic, Iowa, in 1873, where he has been in active practice for thirty-four years. He served in the Civil War in Company G, 2d Iowa Infantry, and held every position from corporal to captain. He was county attorney four years and republican elector, last election, for Roosevelt. He was admitted to the Iowa bar in 1866.

CEDAR COUNTY.

HISTORICAL.

Cedar County is situated in the eastern and central portion of the state, adjoining the river counties. It is bounded on the north by Jones county, on the east by Clinton and Scott counties, on the south by Muscatine county, and on the west by Johnson and Linn counties.

The name of the county is taken from the Cedar river, which runs diagonally across the southwest part of the county, entering it about nine miles south of the northwest corner and passing out at or near the center on the south line. The river derived its name from the many red cedar trees that grew on its banks. The county is twenty-four miles square and contains sixteen congressional townships, and these are divided into seventeen civil townships, with an area of 576 square miles. The fifth principal meridian passes along the east line of the county, and the townships are 79, 80, 81 and 82 north, and the ranges 1, 2, 3 and 4 west of said meridian. The county is a part of the Louisiana Purchase, the far famed Northwest, each year growing in wealth and increasing in population. It is in the Fifth congressional district, the Eighteenth judicial district, and the Twenty-fourth senatorial, and the Forty-fifth representative district in the county.

At the second session of the Wisconsin territorial legislature, which convened at Burlington, Iowa, in November, 1837, the original county of Dubuque was subdivided into eleven different counties, and among them

Cedar county. Prior to this time there had been some white settlers in the county, and subsequent to this date the settlers came in so fast that by the year 1853 the land had about all been entered of the Government.

Rochester was, by the territorial legislature of Wisconsin, designated as the seat of justice for Cedar county in 1837, but, as the county became better settled, there grew a strong sentiment in favor of removing the county-seat. Rochester was on the Cedar river, at the head of navigation at that time. Since that time the river has not been navigable. At the session of the territorial legislature which convened at Burlington, Iowa, in November, 1839, there was presented a petition setting forth the reasons why the seat of justice of the county should be changed. The legislature convened on the 4th of November of that year, and on the 24th the petition was presented to the legislature and promptly referred to a committee. On the second day after the reference, the committee reported a bill which, after some amendment, became a law. It appointed a commission of three persons on relocation of the county-seat. They were directed to meet at Rochester first, on the second Monday in March, 1840, and if they found that place convenient and eligible for the seat of justice, they were to relocate the same there; but if otherwise, they were to proceed to relocate the same as near the geographical center of the county as the most eligible situation could be found, combining the advantage of health, convenience of timber, water, etc., and directing them, as soon as they had determined on the place, to give it such name as they thought proper, and file a copy of their proceedings with the clerk of the district court.

There was much rivalry to secure the county-seat, but after a period of feasting and riotous living on behalf of the commissioners, they decided on the geographical center of the county as the proper location. On the 14th

day of March, 1840, a stake was driven in the ground on the northwest one-fourth of section 6, township 80 north, range 2 west of the Fifth P. M., the center of the county, and one of the commissioners wrote in a square on the top of the stake the word "Tipton" in honor of General Tipton of Indiana, and so the county-seat was named Tipton. Thereupon a bottle of champagne, some say whisky, was broken on the top of the stake. Action was taken on the report by the county commissioners of the county on the 16th day of March, 1840, and the new location was formally adopted, and is the location at this time, sixty-six years after. The county commissioners entered of the Government the land situated for the county-seat and had it platted into lots. The clerk of the court was at that time also clerk of the board of county commissioners.

Prior to 1838 there were no courts convened in Cedar county. The people adjusted their own disputes. They lived so far apart that they seldom had opportunity to tell what they thought of one another. The first United States district court was held at Rochester, Cedar county, in May, 1838. Judge David Irvin was the presiding judge. No criminal cases were tried at the term, and very little civil business transacted, but two grand juries were in attendance; one to inquire into infractions of the law of the United States, and one for a like purpose on behalf of the territory of Wisconsin. There was no term in the fall of that year, and no record can be found of this early court.

Hon. Joseph Wilson was judge for the Second judicial district, territory of Iowa, for the years 1840 to 1845, inclusive. For the year 1846, then Third judicial district, territory of Iowa, Hon. Thomas S. Wilson served as judge.

Iowa was admitted into the Union as a state, December 28, 1846. The district court judges since the admission of the state are as follows; also the districts in which

Cedar county was found: Second judicial district, state of Iowa, Judge James Grant, 1847 to 1851; Second judicial district, Iowa, Judge Thomas S. Wilson, 1852; Eighth judicial district, Judge William E. Leffingwell, 1853; Eighth judicial district, Judge John B. Booth (appointed 1854); Eighth judicial district, Judge Wm. H. Tuthill, 1855 to 1858; Eighth judicial district, Judge William E. Miller, 1859 to 1862; Eighth judicial district, Judge Norman W. Isbell, 1863 to December, 1864; Eighth judicial district, Judge C. H. Conklin, December, 1864, to December, 1865; Eighth judicial district, Judge N. M. Hubbard, December, 1865 to 1866; Eighth judicial district, Judge James H. Rothrock, 1867 to 1875; Eighth judicial district, Judge John Shane, 1876, to November, 1882. Judge James D. Giffen held November term, 1882, and from that time to 1886, inclusive. Eighteenth judicial district, Iowa, Judges James D. Giffen and J. H. Preston, 1887 to 1894; Eighteenth judicial district, Judges Wm. P. Wolf and Wm. G. Thompson, 1895. Judge Wolf died September, 1896, and H. M. Remley was appointed and after elected and served with Judge Thompson to 1898. Eighteenth judicial district, Judges Wm. G. Thompson, W. N. Treichler and H. M. Remley, 1899 to 1902; Eighteen judicial district, Judges Wm. G. Thompson, J. H. Preston and B. H. Miller, 1903 to 1906; Eighteenth judicial district, judges elected fall, 1906, Milo P. Smith, W. N. Treichler and F. O. Ellison.

CIRCUIT COURT JUDGES.

Second circuit, Eighth judicial district, Judge Sylvanus Yates, first judge, 1869 to 1872; Eighth circuit, Judge John McKean, 1873 to 1880; Eighth circuit, Judge Christian Hedges, 1881 to 1886, when court was legislated out of existence.

COUNTY JUDGES.

S. A. Bissell, 1852 to 1855; Wells Spicer, 1856 to 1857; George Smith, 1858 to 1859; W. P. Cowan, 1860 to 1861;

W. N. Freichler

J. C. Betts, 1862 to 1868, when office was discontinued under the law.

BIOGRAPHICAL.

Judge William Newton Treichler, who assumes the duties of judge of the Eighteenth judicial district in January, 1907, was born in Montgomery county, Pennsylvania, January 8, 1856. He came with his father's family to Cedar county, Iowa, in the spring of 1866. In June, 1879, he graduated from the law department of the State University of Iowa. He began the practice of the law at Tipton the following year. He has been in the practice there ever since. He was elected mayor of the city in 1886. In 1898 he was elected to the district bench, and was again elected to the same position in the fall of 1906.

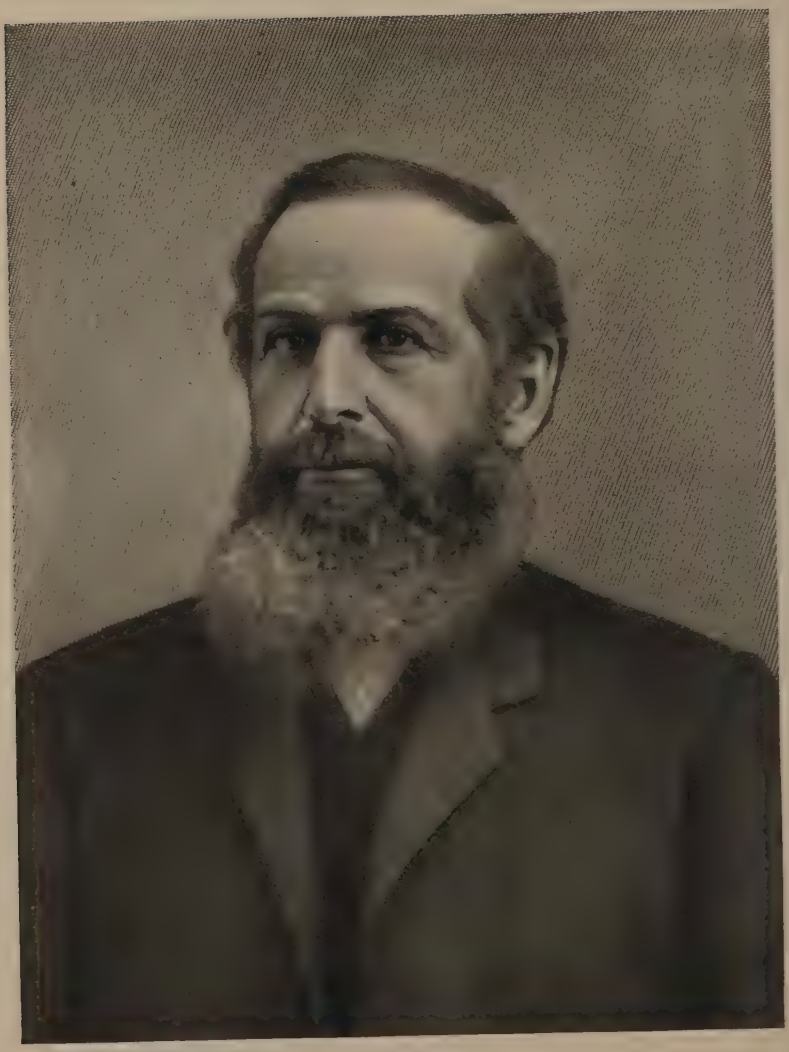
Ezekiel M. Brink was born in Leroysville, Bradford county, Pennsylvania, June 1, 1841, and came to Cedar county, Iowa, with his parents April 9, 1854, and has resided in this county ever since. He was admitted to the bar in June, 1868, under the old method, Judge James H. Rothrock then presiding on the district bench. He was elected county auditor in 1869, and held the office for two terms. Was elected the first mayor of Tipton, and held that office four terms. He died January 10, 1907, the oldest member of the Cedar county bar.

John T. Moffit is a native of Cedar county, born July 8, 1862. He graduated from Cornell College at Mt. Vernon, Iowa, in 1884, with the degree of A. B. In July, 1886, he graduated from the law department of the University of Michigan at Ann Arbor with the degre of LL. B. His alma mater conferred the degree of M. A. in 1887. In 1885 he enlisted as a private in the Iowa National Guard; was promoted to orderly sergeant and second lieutenant and then to major. Governor Shaw issued his call for volunteers for the Spanish American War April 25, 1898, and he was enrolled as major of the Fiftieth Iowa April 26, 1898, and mustered into the United States serv-

ice, and on August 20, was promoted to lieutenant-colonel of the Fiftieth Iowa Volunteer Infantry. His regiment was the first to leave Iowa for the south. He was regularly mustered out November 20, 1898. He began the practice of law in Tipton, Iowa, in the fall of 1887, where he has been in the practive ever since. The firm name with which he is associated is Grim, Trewin & Moffit. He was a delegate to the republican national convention at Minneapolis in 1892. He was elected to the state senate and served from 1900 to 1904, and is now county attorney and is serving his second term.

Louis J. Rowell was born in Tipton, Iowa, March 26, 1872. He received his earlier education in the Tipton schools, graduating in 1891. He then pursued a course at the State University of Iowa, graduating from the collegiate department in 1895, and from the law department in 1896. He opened a law office in the fall of 1896 at Tipton, and the following summer formed a partnership with J. C. France also of Tipton, which firm has continued since. Mr. Rowell has been interested in military affairs, and in 1888 enlisted as a private in the local company then known as Company B, First Regiment, Iowa National Guard; later Company M of the Second, and F of the First Regiment. He held in turn the position of corporal, second lieutenant and captain. When the Spanish-American War broke out, both members of the firm went with their respective companies. Company F became a part of the Forty-ninth Regiment Iowa Volunteer Infantry, and served in the United States and Cuba, being finally mustered out May 13, 1899. Upon the reorganization in the fall of 1899, Mr. Rowell was re-elected as captain and later major of the Forty-ninth Regiment Iowa National Guard, which regiment later became the Fifty-third Regiment Iowa National Guard. He still holds said position.

Since 1899 he has continued in the practice of law with J. C. France, and at present is a member of the city coun-



O. H. Platt

cil of Tipton. He also is allied with the Knights of Pythias, Odd Fellows, Woodmen and several other organizations.

Robert G. Cousins is a native of Iowa, having been born in Cedar county in 1859. He graduated from Cornell College, Mt. Vernon, in 1881. He read law and was admitted to the bar in 1882. In 1885 he was elected to the Twenty-first general assembly. In 1888 he was elected prosecuting attorney and presidential elector in the Fifth district. He was elected to congress from the Fifth district in 1892, and repeatedly re-elected to the fifty-fourth, fifty-fifth, fifty-sixth, fifty-seventh, fifty-eighth and fifty-ninth congresses by the republican party. He resides at Tipton, Iowa.

Henry S. Huber was born in Cedar county, Iowa, September 7, 1856. His father was John S. Huber, and his mother before she was married was Harriett A. Newell. He was educated at the public and high school. He read law with Judge W. P. Wolf and S. V. Landt. He was admitted in 1886 before the district court of Cedar county. He opened an office in Tipton. In 1888 he formed a partnership under the firm name of Treichler & Huber, which continued two years. Since then he has practiced alone. He is a member of the Masonic order, Company F, Iowa National Guard, and Modern Woodmen of America. He is a republican in politics, and was elected mayor in 1898, which office he held one term.

H. C. Piatt, the first-born son of Judge William Piatt, was born at LaGrange, Lycoming county, Pennsylvania, March 24, 1824. He attended Jefferson College, Pennsylvania, and graduated from that institution in 1849, while Robert J. Breckenridge was its president. After his graduation he went to La Porte, Indiana, and entered the academy at that place as an instructor. He remained here but a short time, and then went to South Bend, Indiana, and read law in the office of Joseph Jernegen. He

was admitted to the bar in October, 1852, was married shortly after, and came to Iowa in May, 1853. He walked from Iowa City to Tipton, and began the practice of the law here with but five cents as his capital. He was elected treasurer of the county and served as such officer from 1856 to 1859. He held at different times many of the local offices of the town, and in 1887 was elected to the lower house of the legislature from Cedar county. He was a member of the legislature at the time of his death, November 18, 1888.

He was industrious, painstaking and possessed of the best of judgment. He was a safe counselor and had the confidence of his clients. He accumulated a large amount of property. To his widow and three children he left it all. His widow and one daughter have died since his death, and his daughter, Mrs. Nettie Pine, and his son, Wm. B. Piatt, both residents of Tipton, survive him at this time. Mr. Piatt was kind to all, and especially so to the young man beginning the arduous work of the profession of the law. He looked on the bright side of life and lived it well.

William G. W. Geiger is a native of Cedar county, having been born on the old homestead of his father. In September, 1874, he entered college at Carthage, Illinois, where he took the classical course, graduating in the spring of 1879 at the age of twenty-two years, receiving degree of A. B., and in 1882 his Alma Mater conferred on him the degree of A. M. He began study of law in the office of Wolf & Landt at Tipton in the fall of 1879, and was admitted the following year, after which he read law in the office of Blake & Hormel at Cedar Rapids. In the fall of 1881 he opened an office in Tipton. In 1888, when Cedar county was in the republican column, he was nominated for county attorney on the democratic ticket. Although defeated, he reduced the republican majority to fourteen, running far ahead of his ticket. This splendid

W. G. W. Geiger.

indorsement led to his nomination for judge of the Eighteenth judicial district in 1890; and again in 1896, to fill the vacancy caused by the death of Judge William P. Wolf, but he was defeated in both instances by reason of the political complexion of that section. Mr. Geiger is president and manager of the Tipton Hotel Association and a director of the corporation; also president and director of the City Hall Joint Stock Company, both of Tipton, Iowa.

Other members of the Cedar county bar are, C. O. Boling, F. J. Casterline, T. B. Hanley, I. J. Hamiel, Isaac Landt, H. R. Porter, France & Rowell and Wright, Leech & Wright, all of Tipton; S. S. Crittenden and Carl Mather, of Clarence; C. J. Lynch and W. H. Smith, of Mechanicsville; D. D. McGillivray, of Lowden; C. E. Mather and Tillman Todd, of Springdale, and Geo. C. Hoover, of West Branch.

CERRO GORDO COUNTY.

HISTORICAL.

Cerro Gordo county was organized August 7, 1855, and John B. Long was elected county judge, Henry M. Clark, clerk, and C. B. Raymond, prosecuting attorney. The first case to come before the county court was entitled John N. Bill vs. George W. Henderson, a petition for habeas corpus. The attorneys are stated as being "Harwood and Penn Broker" (Poindexter). The court decided that from a technicality it had no jurisdiction over the case. This was September 18, 1856. In November, 1856, J. S. Church succeeded J. B. Long as county judge. He was a much better penman than Long, and the records greatly improved when his administration began.

On February 1, 1858, court convened at Mason City, but immediately adjourned to Livonia. In January, 1860, George Vemirlya succeeded J. S. Church as county judge. In 1859 an act was passed by the general assembly creat-

ing a board of supervisors to supersede the old system of county court, and was vested with nearly all the authority formerly held by that body. This act did away (practically) with the county judge.

One of the most important acts of that body at that time was the securing the legal services of W. P. Hepburn in settling the vexed question of Cerro Gordo county swamp land scrip with the United States land office at Washington, D. C.

Marcus Tuttle, Elisha Randall, W. E. Thompson and Geo. E. Frost are mentioned as county judges. When Cerro Gordo county was organized it became a part of the Tenth judicial district, which was created about the same time. The district was then comprised of Cerro Gordo, Allamakee, Chickasaw, Clayton, Fayette, Floyd, Howard, Mitchell, Winneshiek and Worth counties. These, with the exception of Cerro Gordo and Worth, and the addition of Bremer and Butler, became the Tenth judicial district in 1858. Samuel Murdock was the first judge of the Tenth district, elected April 2, 1855, and commissioned May 3, 1855. The first term held in Cerro Gordo county was in June, 1857, and was presided over by Hon. Samuel Murdock, judge of Tenth judicial district. There were present, besides the judges, N. W. Stackhouse, sheriff, and E. D. Huntley, clerk of court.

The first case upon the docket was that of Silas Card and Jacob Van Curen vs. John B. Long, County Judge, for malfeasance in office. The case had been tried before the district court of Floyd county, and J. B. Long had been suspended from performing the duties of his office as county judge. The case was continued, however, coming before the district court of Cerro Gordo county, as stated above. On the first day of the term this case came up for hearing, and, a jury being demanded, the jurors named took their places. The parties appeared by their attorneys and, after hearing the proofs and alle-

gations, arguments of counsel and charges of the court, the jury retired to consider their verdict. After a short absence the jury returned to inform the court of their inability to agree. The court then ordered the case continued, and also ordered, that defendant be reinstated in his office as county judge, and that the order suspending said party be annulled. At the same term of court, John Porter was regularly admitted to practice as an attorney and counsellor at law in all district courts of the state.

Hon. Samuel Murdock was born near Pittsburg, Pennsylvania, March 17, 1817, moved to Ohio with his father when eleven years old and settled on a farm near Cleveland. He attended school about one-fourth of a year and balance of time helped his father on the farm. In 1841 he emigrated to Iowa. In the autumn of that year he was in the office of Hon. Gilman Folsom, Iowa City, where he remained until he was admitted to the bar in the spring of 1843. He immediately moved to Garnavillo, Clayton county, and began practice, being the first lawyer in that county. In March, 1876, he removed to Elkader, Clayton county. He was a man of education and refinement and had the reputation throughout the state of being an able lawyer and a sound jurist. Under the constitution adopted in 1857, Cerro Gordo county became a part of the Eleventh judicial district.

John Porter was elected judge of this district in October, 1858, and re-elected in 1862. He resigned before the expiration of his second term, and was succeeded by D. D. Chase, of Hamilton county. Judge Chase, however, never held a term of court in Cerro Gordo county, as another change was made in the district before he took the bench, which threw this county out of his district. William P. Hepburn and D. D. Chase were district attorneys while John Porter was judge. On the 4th of July, 1864, the Twelfth district was created, and

Cerro Gordo county was made a part of that district. On the 8th of November, 1864, William B. Fairfield, of Floyd county, was elected district judge and John E. Burke of Waverly, district attorney, Judge Fairfield was re-elected in 1868, and I. W. Card, of Mason City, was elected district attorney. In 1870 Judge Fairfield resigned and George W. Ruddick, of Waverly was elected to fill the vacancy.

William B. Fairfield was a native of New York, but came west early in the history of Iowa, and settled in Floyd county, where he engaged in the practice of law. He resigned his position as judge in 1870, and went into the banking business at Charles City, where he died.

In the fall of 1870, George W. Ruddick, of Waverly, was elected judge of the Twelfth judicial district, to fill the vacancy, caused by the resignation of Judge Fairfield. Judge Ruddick was re-elected several times to the bench. He was born in Sullivan county, New York, May 13, 1835. Until fourteen years of age he remained at home upon his father's farm, his time being spent alternately at work and in attendance at the district school. On leaving home he went to Chester, Ohio, where he attended a seminary one year. Then he went to Kingsville, Ohio, for two years, then removed to Monticello, New York. After remaining there one year, he entered the law office of A. C. Niven, reading law with him for two and one-half years. In the fall of 1855 he entered Albany Law School, graduating in April, 1856. He was then admitted to the bar. In July, 1856, he started west, and on August 18, the same year, he arrived at Waverly, Bremer county, Iowa. He at once entered upon the practice of his profession, and made Waverly his home up to the time of his death. Judge Ruddick was a man of fine legal ability, with a thorough knowledge and understanding of the law, and made an acceptable judge.

Hon. H. N. Brockway, of Hancock county, was the

first circuit judge of the Second circuit. He was elected in November, 1868, and served four years, at the expiration of which time Cerro Gordo county was thrown under the jurisdiction of the First circuit, and later they were consolidated.

The first term of the Cerro Gordo county circuit court convened Feb. 8, 1869, in the court house at Mason City. Those present were: H. N. Brockway, judge of the Second circuit, Twelfth judicial district; F. M. Rogers, clerk, and A. M. Thompson, sheriff. The first case called from the docket was Rebecca Stahley against John Keller. W. C. Stanbery was counsel for defendant.

Robert G. Reiniger succeeded H. N. Brockway to the circuit judgeship. He was re-elected several times as his own successor. He was born in Seneca county, Ohio, April 12, 1835, on a farm. He prepared for college at Tiffin, Ohio, near his home; entered Heidelberg College in that city, in 1853; pursued miscellaneous studies for three years, reading law at the same time, and was admitted to the bar at that place in September, 1856. In March, 1857, he came west and located at Charles City. On October 10, 1870, he was commissioned circuit judge. As a jurist he was cautious, conscientious and candid; had his prejudices, like other men, but laid them aside on the bench, and was impartial in his decisions.

The first lawyer to locate in Cerro Gordo county was Thomas Drummond, of Virginia, but he came here from Vinton in 1855.

BIOGRAPHICAL.

John Porter located at Mason City and began the practice of law in 1856. He was born in Washington county, Pennsylvania, April 14, 1828. In 1854, on his admission to the bar, he located at Plymouth, Indiana, where he remained two years, and then removed to Mason City, Iowa. He soon took high rank as a lawyer and obtained a good practice for that day. In 1858 he

was elected judge of the Eleventh district and soon afterward he moved to Eldora, Hardin county, Iowa.

John S. Stanbery has been in the practice of law at Mason City, Iowa, for thirty-seven years, and is a member of the firm of Stanbery, Hill & Eulette. He was born in Ohio, September 28, 1846. He came to Iowa with his parents when he was five years of age, settling first in Benton county, and a few years later moved into Cerro Gordo county. He was a member of the first class at the State University, graduating from the law department in 1870. He was admitted to practice his profession that year and began at Mason City. The firm of Stanbery & Clark was formed in 1874, which partnership continued until 1903. He was justice of the peace ten years, a member of the Thirtieth and Thirty-first general assemblies and has served eight years as a member of the board of education. Politically Mr. Stanbery is and has always been a republican.

John D. Glass began to practice law at Mason City the year he was admitted to the bar, in 1870, and has been continually engaged in the law business here since that time. He is at the present time, member of the firm of Glass, McConlogue & Witwer. He was born in Ohio, November, 1847, and came to Iowa with his parents when he was nine years of age. He took a collegiate course at the State University, graduating in 1870. He read law and was admitted to practice. He was a member of the state senate from 1884 to 1888. In politics he is a republican. He has been quite successful in his law practice, having been engaged in a number of important cases.

James H. McConlogue was born in Philadelphia, Pennsylvania, December 5, 1855. His parents came west in 1858, locating at Beloit, Wisconsin. In 1862 his father moved on a farm in Ogle county, Illinois. In 1868 the family moved to Iowa, settling on a farm in Cerro Gordo

county. The subject of this sketch attended the common schools winters, and worked on the farm in the summer. He attended Notre Dame University, Indiana. He taught school in Rockwell one year, after completing his law course at the Iowa State University, where he graduated in 1882. In June of that year he was admitted to practice. In September, 1883, he began to practice his profession at Mason City, and in the spring of 1885 the firm of McConlogue & Miller was formed. This partnership continued two years. In 1890 the firm of Glass & McConlogue was formed. In 1901 R. M. Witwer joined the firm as Glass, McConlogue & Witwer.

James E. Blythe was born in Cranberry, New Jersey, January 20, 1856, and is a son of Rev. J. W. and Elizabeth (Moon) Blythe. He located in Mason City in 1877. He read law and was admitted to the bar in 1878 and began to practice at once. He was a member of the Twenty-second and Twenty-third general assemblies, member of republican state central committee from 1890 to 1895, and chairman thereof in 1892, 1893 and 1894. He is a member of the firm of Blythe, Markley, Rule & Smith. Mr. Blythe received his early education in the public schools of Hanover, Indiana, and in 1877 graduated from the Presbyterian College at that place.

James E. E. Markley was born in Knox county, Ohio, April 12, 1857. At the age of nine years he came to Cedar Falls, Iowa, with his parents, and in 1881 he moved to Mason City where he has been in practice ever since. He was educated at the public and high schools. He took a three years' course at Cornell College, and graduated from the law department of the State University in 1878. Having been admitted, he began to practice at Marshalltown, Iowa, with Brown & Binford, where he was for three years. He is a member of the firm of Blythe, Markley, Rule & Smith. In politics he is a democrat.

Duncan Rule was born February 19, 1856, at Fox

Lake, Wisconsin, and is a son of James and Mary (Cameron) Rule. He came to Iowa with his parents in 1865, and located in Cerro Gordo county. He was educated at the State University. He read law with Miller & Cliggett at Mason City, and was admitted to practice his profession May, 1889. He then formed a partnership with Cliggett, as Cliggett & Rule. Since 1901 the firm has been Cliggett, Rule & Keeler, and they are engaged in general practice. Mr. Rule was clerk of the district court from January, 1881, to January, 1889; mayor of Mason City, 1891 and 1892. In 1892 he was chairman of the republican county central committee.

John Cliggitt was born in Montgomery county, New York, August 25, 1840. In 1850 his parents settled in Kendall county, Illinois, coming from Burlington, Vermont, when he was ten years of age. He was educated in the common and high schools. He taught school in Illinois, and a part of one winter at Mason City, Iowa, where he located in June, 1871. He has made Mason City his home since that time. He studied law by himself, while on the farm, and later he read law at the old Chicago Law School one year, and was admitted to the Illinois bar in the spring of 1869, and to the Iowa bar in 1871. He began to practice his profession in Kendall county, Illinois, and in 1871 he removed to Mason City and formed a law partnership with Mr. Husted, which continued until 1875, as Husted & Cliggitt. From the spring of 1875 until the fall of 1886 the firm name was Miller & Cliggitt, and after that he was alone in practice about three years, and in 1889 the firm was Cliggitt & Rule until 1901, when it became Cliggett, Rule & Keeler. He was mayor from 1880 to 1884.

Joseph J. Clark was born in Richmond, Madison county, Kentucky, October 30, 1851. He was educated at the common and high schools of Clarinda, Iowa. He taught school in Page county, Iowa, and clerked in the

postoffice at Lexington, Missouri. He took a Chautauqua course four years, and taught the same course the same number of years. He read law at the State University, and was graduated and admitted to practice in 1873. He began to practice in February, 1874, at Mason City, with Stanbery, Clark & Stanbery. The Senior member of the firm died within the year, and the firm became Stanbery & Clark, which continued until 1902, and since that time Mr. Clark has practiced his profession alone. He was county attorney from 1886 to 1892, and has served as city attorney and city clerk. Mr. Clark has been associated with a number of important cases.

Wm. Hoy was born in Canada, August 26, 1840, of Scotch and Irish parents. When he was eight years old he moved with his parents to the state of Wisconsin, and worked on the farm until he was eighteen years old. Then he gave up the farm and entered Hamilton University, a Methodist school. Then he located at Red Wing, Minnesota, and remained a student there for four years. He then received a call to take charge of the public schools of Newton, Iowa, where he remained six years, and immediately after this six years he studied law in the office of Judge Cook, who is now attorney for the Chicago, Milwaukee & St. Paul Railway Company, and is located at Cedar Rapids, Iowa. At the close of the two years in Judge Cook's office he was admitted to the bar at Newton, Iowa, in 1876, and moved at once to Hampton, Iowa, and a few years later to Mason City, where he now resides. His practice has taken a wide range, including court work, collections, real estate and farming. He is now sixty-six years old. In 1863, in Washara county, Wisconsin, he was married to Mary C. Ferguson, who passed from this world in April, 1902.

Daniel W. Telford was born in Illinois November 17, 1851. He was educated in the district school, East Paw (Illinois) Seminary, Sandwich public school, and Madison

University, Wisconsin. He read law at Sycamore, Illinois, and was admitted at Ottawa, Illinois, June, 1879. He was for four years city solicitor of Mason City and for six years attorney for Cerro Gordo county. In politics he is a republican.

Clifford P. Smith is the youngest district judge in the state of Iowa. He was born in Indiana on a farm, March 4, 1869. His parents were Joseph B. and Amelia Smith. He came to Mason City in 1889. He graduated from the law department of the State University in 1891, and was admitted that year. He was appointed judge of the Twelfth judicial district by Governor Shaw December 12, 1899, and was elected the same year, and re-elected in 1902 and 1906.

Hugh H. Shepard is a native of Iowa, having been born in Mason City March 9, 1876. His father was Henry H. Shepard, and his mother before her marriage was Anna Hurst. He graduated from the Mason City high school in 1892. He then took a collegiate course at the State University, and graduated in 1897. He read law at the State University, and was admitted to practice in 1900. He began to practice his profession at once at Mason City. He also does an abstract and loan business and makes a specialty of probate law and titles. In politics he is a republican.

Ira W. Jones, Clear Lake, was born February 28, 1877. He was educated at the Iowa State College at Ames, Iowa, and was graduated in 1903. He read law a year and a half at the Drake University and graduated from Yale in June, 1905, and was admitted to the Iowa bar in October, 1905. He began to practice at once at Clear Lake. In politics he is a republican.

A. B. Tuttle was the first lawyer to locate in Clear Lake. After two years' practice, he moved to Mason City and engaged in the mercantile business. He held the office of mayor, and was a member of the board of

education for a number of years. He died in Mason City in 1897.

E. S. Wheeler located in Mason City in 1880, practiced law for two years, moving from here to Nora Springs, Iowa, thence to Chicago, where he has since resided.

M. P. Rosecrans commenced the practice of law at Clear Lake in 1886. He not only practiced law but was editor of the "Clear Lake Observer." He was a member of the firm of Rosecrans & Campbell. He died at Clear Lake in 1894.

D. T. Gibson, now of Waverly, Iowa, located at Mason City in 1870, where he practiced law for two years in the firm of Stanbery, Gibson & Stanbery.

J. K. Boyd located here in 1857. He was a very successful practitioner for three years, when he left Mason City for other fields.

Irving W. Card, born in Ohio, moved with his parents to Vinton, Benton county, Iowa, coming to Mason City in 1856. He studied law with Reiniger & Reiniger, of Charles City, where he was admitted to the bar and became a member of the firm under the name of Reiniger, Card & Reiniger. He moved from Charles City to Mason City and was elected district attorney for the Twelfth judicial district. During the war he was provost marshal of this district. Immediately after the war he formed a partnership with W. C. Stanbery, and after two years' practice he formed another partnership with Geo. R. Miller, the firm name being Card & Miller. He was considered a very successful lawyer and regarded as one of the ablest in Northern Iowa. He died in 1894.

Richard Wilbur practiced law in Mason City for many years. At one time he was a member of the firm of Goodykoontz & Wilbur, and later a partner of our present judge of the supreme court, John C. Sherwin. He came to Mason City in 1873 and died in 1903.

John C. Sherwin located in Mason City, Iowa, in 1875,

coming from Black River Falls, Wis. He held the office of mayor, justice of peace, district attorney, was judge of the district court of this district for a number of years, and is at present one of the judges of the supreme court of Iowa.

Chas. H. Hughes came to Mason City in 1875 and formed a partnership for the practice of law with John D. Glass, under the firm name of Glass & Hughes. He left here in 1890, going to Superior, Wis., where he practiced his profession for two years and then retired. He is now living on a farm in Minnesota.

H. B. Gray opened a law office in Mason City in 1861; was clerk of the district court for one term; then moved to his former home in New York.

James Crow located in Clear Lake in 1857, coming from Benton county, Iowa. He practised law with fair success until the beginning of the war, when he moved on a farm in Hancock county.

A. H. Cummings came here from Vermont in 1871. He studied law in the office of Stanbery, Gibson & Stanbery, and was admitted to practice in 1873. He held the office of justice of peace for 24 years, was mayor of Mason City for eight years, and a member of the board of education for twelve years. He retired from active practice in 1903 and now holds the office of receiver in bankruptcy.

D. W. Hurn located at Clear Lake in 1885, becoming a member of the firm of Bush, Hurn & Kelly. Bush and Kelly moved from Clear Lake in about a year, and Mr. Hurn continued the practice alone. He served as county attorney for two terms, was associated with the Cerro Gordo County Bank of Clear Lake as one of its officers, and was a member of the twenty-eighth and twenty-ninth general assemblies.

W. C. Stanbery was born in Pennsylvania in 1824, moved to Ohio when quite young, and studied medicine and practiced in Ohio and Indiana for a short time. In

1854 he moved to Vinton, Iowa, and in 1857 received a degree from the Keokuk Medical College. In 1858 he located at Clear Lake, Iowa, where he was admitted to the bar and became a successful practitioner. He served during the war as first lieutenant of Co. B, 32d Iowa Vol. Inf. He was provost marshal at Fulton and New Madrid, Mo. He retired from service in 1864, and resumed the practice of law at Mason City. He was the first mayor of Mason City. In politics, a Democrat.

Edwin Flint came here from La Crosse, Wis., in 1869, becoming associated in the practice of law with B. F. Hartshorn. He served six years as circuit judge of the Sixth judicial district of Wisconsin. He retired from active practice in 1876, and died in 1879.

George and **B. F. Hartshorn,** father and son, came here in 1868. After practicing law together for a few years, the father retired. In 1888 B. F. Hartshorn moved to Motley, Minn. He was mayor of Mason City for two terms, and served two terms in the Iowa legislature.

Alexander Campbell located at Clear Lake in 1869 and practiced law until 1876, when he moved to Tacoma, Wash., where he has since practiced law with marked success.

Chas. MacKenzie became a member of the Cerro Gordo county bar in 1870, as a member of the firm of Husted & MacKenzie. He is now engaged in the practice of his profession in Des Moines.

L. A. Hill located in Mason City in 1901, forming a partnership in 1902 with C. D. Eulette, under the firm name of Hill & Eulette. In October this firm became Stanbery, Hill & Eulette. Mr. Hill was admitted to the bar in 1893, first practicing law in Fremont county, Iowa, where he served as county attorney.

Chas. Husted practiced law in Mason City in partnership with John Cliggitt from 1869 to 1873.

A. L. Kimball commenced the practice of law in Mason

City in 1898, at the same time engaging in the abstract business. In 1904 he was elected justice of the peace, which office he now holds.

T. G. McDermott located here in 1896, coming from Algona, Iowa. He is a graduate of the State University of Iowa.

Earl Smith, our present county attorney, commenced the practice of law in Mason City in 1904. He is a graduate of the law department of Drake University.

A. A. Adams graduated from the law department of the State University and began the practice of law in Mason City in 1899.

Frank W. Chambers studied law in the office of Stanbery & Clark, and was admitted to practice in 1898, at which time he was elected justice of peace, and he has held that office ever since.

Percy C. Church located here in 1901. He is a graduate of the State University and a son of Judge Church, of Fresno, California.

Charles H. Allen commenced the practice of law at Clear Lake in 1899, having graduated the same year from the law department of the State University.

Wiley S. Rankin graduated from the law department of the State University and hung his shingle in Mason City in 1901. He is still in practice here.

F. A. Kirschman, city solicitor for two terms, located in Mason City in 1885. He is the senior member of the firm of Kirschman & Robinson.

Samuel A. Koch located here in 1902. He is a graduate of the law department of Drake University. After two years' practice in the firm of Robinson & Koch, Mr. Koch retired from the firm, and has since continued the practice of his profession alone.

Burr C. Keeler, the junior member of the firm Cliggitt, Rule & Keeler, graduated from the law department of the State University and commenced the practice of his profession in Mason City in 1900.

L. C. Rinard came to Mason City in 1897. He filled the office of county attorney until his removal from the city in 1905.

J. C. Robinson, our present city attorney (which office he has held since 1904), started in the practice of his profession in Mason City in 1902. He is a graduate of the law department of Drake University. He is associated with F. A. Kirschman, under the firm name of Kirschman & Robinson.

A. L. Rule commenced the practice of law here in 1904, moving here from Cedar Rapids, where he had practiced a few years. He is a graduate of the law department of the State University. At present he is a member of the firm of Blythe, Markley, Rule & Smith.

Claire Smith, a Mason City boy, studied law in the office of Blythe & Markley, was admitted to the bar in 1905 and is now a member of the firm of Blythe, Markley, Rule & Smith.

Robert Witwer located here in 1900. After a year's practice alone he became a member of the firm of Glass, McConlogue & Witwer. He is a graduate of the law department of Drake University.

Clayton D. Eulette graduated from the law department of Lake Forest University and was admitted to the practice of law in Illinois in 1896. After practicing in the City of Chicago for 5 years, he came to Mason City, and in 1902 became a member of the firm of Stanbery, Hill & Eulette.

CHEROKEE COUNTY.

HISTORICAL.

In August, 1857, the county was organized and the following officers were elected: A. P. Thayer, county judge; B. W. Sawtell, clerk; C. Corbett, prosecuting attorney; G. W. Labourvean, treasurer and recorder; W. Haynes, sheriff, and G. W. Banister, coroner. Cherokee is the county seat of Cherokee county.

Among those who have been resident lawyers and

practiced before the courts of Cherokee county, and who have either died or retired from the practice, or moved away, are now recalled the following:

The first lawyer in Cherokee county was **H. C. Kellogg.** He came here in 1869 and formed a partnership with C. H. Lewis. They both came from Buchanan county, Iowa. Mr. Lewis was elected district attorney and subsequently district judge. The latter removed to Sioux City. Eugene Cowles came here in 1870, and died in 1880. He was a good lawyer and built up a good practice.

A. F. Meservey came from Fort Dodge, Iowa, in 1880, and purchased the library and law business of the Eugene Cowles estate, and practiced law and became a politician of some note. He was state senator from this district and he retired from the practice of law in 1888.

THE PRESENT BAR.

The present legal fraternity of Cherokee county is made up of the following attorneys: J. D. F. Smith, E. C. Herrick, Thomas McCulla, A. R. Molyneux, Wm. Mulvaney, C. M. Smith, J. A. Miller, D. W. McNeal, H. L. Loft, Guy M. Gillett, E. J. Hornibrook, W. P. McCulla, W. K. Herrick, Ben. Radcliff, W. O. Striker, and District Judges John F. Oliver, Wm. Hutchinson, F. R. Gaynor and David Mould.

BIOGRAPHICAL.

James D. F. Smith was born November 22, 1844, at Peoria, Illinois. He was educated in the common schools and attended for four terms the Aurora Institute and Clark Seminary, at Aurora, Illinois, He studied law in the offices of T. Lyle Dickey and John Brooks Rice, at Ottawa, Illinois, and was admitted there in May, 1870, before the supreme court of that state. May 1, 1871, Mr. Smith removed to Cherokee, where he has continuously practiced. He has been successful in his profession, having his share of the law business of Northwestern Iowa, and he has practiced in all of the counties of the North-

western portion of the state as well as in the courts of Nebraska, the Dakotas, Wisconsin, Illinois, Minnesota and Kansas. Mr. Smith is a democrat. He is a member of the Independent Order of Odd Fellows. He was married November 27, 1870, to Amelia R. Gillett.

Ernest C. Herrick was born August 19, 1848, at Linden, Gennesee county, New York. When seven years of age he removed with his parents to Mantorville, Dodge county, Minnesota, where he attended the district school. He studied law at Michigan University, Ann Arbor, from September, 1873, to March, 1875, and was admitted, in May of that year, at Cherokee, Iowa, to the district court. Later he was admitted to the supreme court of Iowa, and to the United States courts in Iowa, and in October, 1894, to the supreme court of the United States. He began the practice of law at Cherokee, Iowa, May 23, 1875, and entered into partnership with H. C. Kellogg, who had been in practice there since 1869, having been a member of the firm of Kellogg & Lewis, Mr. Lewis retiring from the firm when elected to the district bench in 1875. In 1881 Mr. Kellogg retired from the firm, and Mr. Herrick continued his practice alone until June, 1904, when his son, W. K. Herrick, was taken into the business, and since that date the firm name has been Herrick & Herrick. Mr. Herrick is a democrat, though independent.

Daniel W. McNeal was born in Ottawa, Illinois, February 15, 1855. He acquired his early education in the district school in La Salle county, Illinois, and later attended Lombard College, Galesburg, Illinois. He studied law in the office of the Hon. James O'Donnell, at Cherokee, and was admitted there by the district court, Hon. Charles H. Lewis, presiding judge, February 14, 1877. He took up the practice of law in Cherokee at once upon his admission, and continued until 1880, when he removed to Washta; and after two years in the lumber business he resumed the practice there, and continued

the same until his election as clerk of the district court of Cherokee county in 1894. He served three terms in this office and resumed practice in Cherokee, January, 1901. He was appointed lieutenant-colonel on the staff of Governor Larrabee in 1882. He is a member of the First Congregational Church, and of the Sunday School, of which he has been superintendent five years. He is a progressive republican.

CHICKASAW COUNTY.

HISTORICAL.

An attempt was made to organize the county in the Spring of 1853, an election being held, and J. K. Rowley elected judge, but, proceedings having been irregular in some way, the organization did not hold. In August of the same year a more successful attempt was made, and the following officers were elected: James Lyon, county judge; S. C. Goodard, clerk; N. D. Babcock, prosecuting attorney; E. A. Haskell, treasurer, and Andy Sample, sheriff. The county seat was first located at a place called Bradford, July 14, 1854, by William McClintock and John B. Onstine, commissioners. In April, 1856, an election was held and vote taken on the question of moving it from Bradford to New Hampton, at which the latter town received the majority of votes. But the canvassers threw out the vote of one township (Washington), and thus decided it for Bradford. In the Spring of 1857 a second commission appointed by the legislature located it at New Hampton. Soon afterwards, another aspirant for the seat of government came to the front in the town of Forest City, and on April 5, 1858, a vote was taken, resulting for New Hampton, but again the board of canvassers threw out the vote of Washington township and changed that of another, and gave the majority to Forest City; but the question was taken into court and finally settled in favor of New Hampton, and there it has since remained.

The first session of court was held September 5, 1853, by J. Lyons, county Judge, at which no business was transacted. October 10, court again convened, but no business was transacted. At the session held November 7th, a petition signed by John Baird, Andrew Sample, E. A. Haskell and others for a county road to be called the West Union and Bradford road, was referred to E. A. Haskell as commissioner to report at the next term of court.

The first entry of B. E. DePuy as judge is of date October 1, 1855, and has reference to the appointment of a commissioner to locate a road to be known as the Waucoma road.

We find under date of June 2, 1857, that the county judge issued two marriage licenses, one to C. W. Taylor and one to Geo. B. Holcomb, both to marry the same lady.

Among the early attorneys of the Chickasaw county bar was J. H. Powers. He came here in 1857. C. O. Case came in 1858; M. C. Ayres in 1865; Hiram Shaver about 1868. S. J. Kenyon practiced law and later became cashier of the First National Bank. He located at New Hampton in 1869. H. H. Potter came in 1870. D. B. Hanan came from Fredericksburg; D. B. Snedin in 1871; A. C. Baylan in 1878. Geo. E. Stowe came from Chicago in 1880, and W. J. Springer in 1879. J. R. Byne came in 1879. Samuel Young was admitted to the bar and was county surveyor at an early day. O. K. Hoyt came from Illinois in 1871 and moved to Humboldt, Iowa, in 1880.

The first lawyer in Chickasaw county was G. W. Howard, who subsequently became state senator, filling the vacancy caused by the resignation of Hon. J. H. Powers, to enter the military service during the War of the Rebellion. Howard was afterward appointed major of the Twenty-seventh Iowa Infantry, and served through the war. He removed to Waterloo, Iowa. The next attor-

ney to locate here was F. D. Hall, who was at one time prosecuting attorney of the county. A. G. Case was the next attorney who came to Chickasaw county, and J. H. Powers was the fourth to settle here.

THE PRESENT BAR.

The attorneys of Chickasaw county in active practice are: B. A. Billings, Tim Clary, M. F. Condon, R. Feyerbend, M. E. Geiser, Matt. Kean, A. G. Lawrence, F. A. O'Connor, J. H. Powers, W. B. Perrin, J. W. Sandusky, W. A. Smith, W. J. Springer, F. F. Swale, and J. A. Yarger.

BIOGRAPHICAL.

Julius H. Powers was born in Rochester, Vermont, May 22, 1830. He removed with his parents when six years of age to Freedom, Ohio, and when twenty years of age to Berlin, Erie county, Ohio. He was educated in the Kingsville (Ohio) academy, graduating under J. K. Graves, who was president at that time. He studied law with Walker & Gunkle at Dayton, Ohio, and also in the Cincinnati Law School, graduating March 15, 1855. He was admitted to the bar in the Hamilton county (Ohio) district court, April 7, 1855; in the Chickasaw county (Iowa) district court at the June term, 1857, and the United States circuit court, district of Iowa, January 12, 1876. He came to New Hampton, Chickasaw county, and began the practice of law in 1857 and continued until July, 1861, when he enlisted as a private in Company B, Seventh Iowa Infantry. He was commissioned captain of Company I, Ninth Iowa Infantry, September 18, 1861. He served in said regiment until April, 1863. On July 19, 1864, he was commissioned by the United States war department commissioner of the board of enrollment for the Third congressional district of Iowa. He was elected senator in 1859 and served until he entered the United States army in 1861—regular session of 1860 and special session of 1861.

In 1869 he formed a partnership in the law business with Samuel J. Kenyon, under the firm name of Powers & Kenyon, which continued until 1881. He is a member of the Masonic Lodge of Tippecanoe of Ohio, and Odd Fellows Lodge of New Hampton, Iowa. In politics Mr. Powers is a republican.

William B. Perrin was born in Berlin, Vermont, January 19, 1839. He acquired his education in the Barre academy, at Barre, Vermont, and at Dartmouth College, Hanover, New Hampshire. He attended the law school at Albany, New York, and was admitted there in 1867. He then removed to Burlington, Iowa, where he was admitted January, 1868, and later to Nashua, Iowa, where he formed a partnership with A. G. Lawrence, which continued from 1873 to 1882. Since that time he has been alone in the practice of his profession at Nashua. He is a member of the Grand Army of the Republic, Loyal Legion and Knights of Pythias. Mr. Perrin is a republican and was a member of the house of representatives, Seventeenth and Eighteenth general assemblies and of the senate in the Twenty-fifth, Twenty-sixth, Twenty-seventh and Twenty-eighth general assemblies.

CLARKE COUNTY.

HISTORICAL.

The county was organized by authority of an act of the legislature passed at the session of 1850-51. The first election was held in August, 1851, at the home of Wm. Vest, some three miles southeast of Osceola. Thirty-five votes were cast, and officers elected as follows: John A. Lindsley, county judge; A. R. Williams, clerk; G. W. Glenn, treasurer and recorder; J. E. Ellis, sheriff; R. Jamison, school fund commissioner; Jerry Jenks, surveyor, and D. Webster, Sr., John Shearer and Bernard Arnold, county commissioners. The county seat was located by a commission consisting of Beverly Searcy, James Graham and Samuel D. Bishop. They fixed on

the present site of Osceola, and made their report August 16, 1851. The first court-house was erected in 1854 at a cost of $900.

THE BAR.

The attorneys of the Clarke county bar are as follows: J. V. Banta, J. S. Banker, L. E. Crist, Carl Dare, C. T. Hardinger, W. S. Hedrick, Jas. H. Jamison, H. L. Karr, A. B. Miller, J. J. McIntire, James Rice, E. E. Rarick, O. M. Slaymaker, Henry Stivers, W. B. Tallman, M. L. Temple, Will N. Temple, Lloyd Thurston, I. A. Touet.

BIOGRAPHICAL.

Hamilton L. Karr was born August 13, 1839, in Salisbury township, Ohio. He passed his boyhood in Meigs county in his native state, and in the common schools of that county he received his early education. Later in life he attended the Pomeroy, Ohio, academy and graduated from Lombard College, Galesburg, Illinois. He read law at Michigan University, and was admitted at Pomeroy, Ohio, April 17, 1866. He was three years in the Union Army, from 1862 to 1865, as private, first lieutenant, captain and major of the One Hundred Sixteenth Ohio Infantry, and saw the last infernal traitor lay down his arms. He was at Appomattox and saw Robert E. Lee, the old arch traitor in less than five minutes after he surrendered his sword to the immortal Grant. He is a 32nd degree Mason and a member of the Grand Army. He began the practice of his profession at Osceola, Iowa, forty-one years ago, and has always resided there. He has his share of the law business and has been courteously treated by the county, state and federal courts, in all of which he has had more or less practice. He has been associated in quite a number of important cases, but not sufficiently so to demand particular mention here. Mr. Karr was a republican until Harrison's administration. Since then he has been a democrat. He has never held any political position.

James J. McIntire was born in Indiana, September 14, 1844. He attended the public schools and Asbury University, Greencastle, Indiana. He read law in the office of his brother, C. C. McIntire, at Osceola, Iowa. In 1879 he was admitted to practice and formed a partnership with his brother under the firm name of C. C. & J. J. McIntire. In 1890 the firm became McIntire Bros. & Jamison, composed of C. C. and J. J. McIntire and James H. Jamison. In 1897 it became McIntire Bros., and was dissolved by the death of C. C. McIntire in 1902. From that time Mr. McIntire has been alone in practice in Osceola. He was attorney for the D. M. O. & S. R. R. from 1882 to 1886, and for the C. B. & Q. R. R. from 1881 to December 31, 1905. He is a member of the Independent Order of Odd Fellows, was Grand Master of Iowa 1889 and 1900, and Grand Representative to the Sovereign Lodge in 1903-1904. He has been a republican ever since he was old enough to vote.

Marcellus L. Temple is a native of West Virginia, where he was born September 16, 1848. He was reared on his father's farm in Morgantown county, West Virginia. He attended the district school, and was graduated from the University of West Virginia, at Morgantown, in 1873. He studied law under the direction of Hon. John A. Dille at Morgantown, and was admitted at Osceola, Iowa, May 22, 1874. On his admission he began to practice law at Osceola, and is still active in his profession as a member of the firm of Temple & Temple. Mr. Temple was a democrat until 1882, since which time he has been a republican. He served as presidential elector in 1892. In the house of the twenty-sixth general assembly he was chairman of the committee having charge of the revision of the Iowa Code, and as a member of the twenty-eighth general assembly he served as chairman of the judiciary committee. He also served in the twenty-ninth, thirtieth and thirty-first general assemblies. Mr. Temple

stands high as a lawyer, and in Masonic circles, having passed through all of the chairs of the Blue Lodge, Chapter and Commandery, and also having been junior and senior Grand Warden of the Grand Lodge. He is also a Knight of Pythias.

CLAY COUNTY.

HISTORICAL AND BIOGRAPHICAL.

The first election in the county was held October 12, 1858. Nine votes were cast and officers elected as follows: C. C. Smeltzer, county judge; S. W. Foreman, treasurer and recorder; Ambrose S. Mead, superintendent of schools; E. M. Wilcox, clerk of the courts; John Kindelspyer, drainage commissioner, and C. Kirchner, coroner. In October, 1871, Spencer became the county-seat by a vote of 359 to 200.

After the election of 1858 Clay was equipped with a full quota of officers. She neither had a courthouse nor a public building of any description, and as a result the officers made their homes public buildings, and whatever public meetings were required to be held were held at the most convenient house. This was not all. Clay was duly organized and officered, but she was without a county-seat. Judge Hubbard, then the presiding judge of the Fourth judicial district, comprehending the condition of affairs, in open court appointed a commission consisting of three, who were supposed to be disinterested parties, to locate the county-seat. They selected the site previously mentioned, and named it Spencer, in honor of the United States senator of Alabama, who had been one of the United States surveying party which had surveyed Clay county and established the boundary lines. The committee made their report to Charles C. Smeltzer, then county judge, whereupon he entered upon the docket the following: "I, Charles C. Smeltzer, county judge of said (Clay) county and the official head thereof, do hereby order that the said town of Spencer, named in their re-

port as the county-seat of Clay county, Iowa, be and is from this time hence, till changed according to law, the seat of justice of said county."

For several months the court records were dated "Spencer, Clay county, Iowa," but that was finally dropped, and the former form, "office of the county judge," was substituted, showing that the judge, while in spirit at Spencer, in person, was many miles away. Charles C. Smeltzer was county judge from 1858 to 1862. C. H. Brackschink held the office from 1863 to 1864. J. L. Crozier from 1865 to 1866, and P. M. Moore, 1867 to 1868.

John W. Cory was born on a farm three miles from Mt. Vernon, Linn county, Iowa, February 12, 1851. He lived on the farm with his parents until 1860, when they removed to Mt. Vernon, where our subject pursued his education at Cornell College, graduating in June, 1871. While attending college he taught school in Emmet county, and took up the study of law as his chosen profession, and was admitted to the bar in February, 1873, at Estherville; being in partnership for six months with E. B. Soper at that place. He removed to Spirit Lake in the spring of 1874, where he remained until the fall of 1897. He then located at Spencer, Clay county, retaining an office at Spirit Lake, and his identity with the firm of Cory, Arnold & Everett. Upon making Spencer his residence and professional headquarters he formed a connection with W. S. Bemis under the firm name of Cory & Bemis. He held the office of district attorney of the Fourteenth judicial district of Iowa for one term, that office being then abolished and after that time he held the office of county attorney for nearly four years. He is a republican in politics, a 32d degree Mason and a member of the Des Moines Consistory Zi-Ga-Zig Temple.

He was married to Catherine Mary Burly August 3, 1881.

THE PRESENT BAR.

The attorneys of Clay county are as follows: W. E. Barnhart, Buck & Kirkpatrick, Cory & Bemis, Orville A. Hammand, Chas. A. Helsell, G. H. Martin, R. L. McCord, Jr., G. W. Patterson, J. E. Steele, Jos. A. Clark, Carr & Parker, J. T. Coun, Davidson & Burt, F. F. Faville, A. L. Freelove, Francis & Owen, F. C. Gilchrist, A. Hubbard, Alice E. Hubbard, Kelleher & Healy Bros., A. C. Hobart, Milchrist & Scott, W. H. Morling, J. A. Tracy, and Helsell & Cornwall.

CLAYTON COUNTY.

HISTORICAL.

The county was created, named and its boundaries fixed by the Wisconsin legislature in December, 1837, and until the following year was attached to Dubuque county for judicial purposes. In the spring of 1838 the governor of Wisconsin territory appointed John W. Griffith the first sheriff. On September 10, 1838, the first election was held and officers elected as follows: S. H. McMaster, county judge; A. Kennedy, treasurer; F. Andras, recorder; John W. Griffith, sheriff and assessor; C. S. Edison, surveyor; J. B. Quigley, coroner; W. D. Grant, Robert Campbell and George Culver, county commissioners. Elkader is now the county-seat.

For five years after the county was organized the early bar was composed of only traveling attorneys, those who followed the circuit and took the business that came in the way. Among those who had cases in the county prior to 1843, but who never claimed a residence here, were J. V. Berry, L. A. Thomas, Thomas Rogers, James Churchman, James Crawford, James Grant, S. C. Hastings, Timothy Davis, Stephen Hempstead, Alfred Bronson, Mr. Larned, Charles Dunn, Wyman Knowlton, P. A. R. Pearse, J. C. Caldwell, Thomas P. Burnett and Mr. Ingersoll. Samuel Murdock was the first to make Clay-

ton county his home. He was followed by the following named: Rueben Noble, Eliphalet Price, Elias H. Williams, P. M. Potter, Gilbert Douglas, Norman Chesley, Schuyler R. Peet, A. J. Jourdan, Thomas Armstrong, Orlando F. Stevens, J. O. Crosby, A. H. Chandler, T. C. Thompson, P. C. Young, G. W. Cook, Elijah Odell, Thomas Updegraff, John F. Stoneman, Dr. Baugh, C. F. Reinick, Willis Drummond, Chas. Woodward, B. F. Hunt, Douglas Leffingwell, S. T. Woodward, Alpheus Scott, Sanford L. Peck, J. W. Moor, T. C. Ransom, Alonzo Brown, H. S. Granger, Colonel Richardson, L. O. Hatch, Robert Quigley and Hiram Odell.

Elias H. Williams was elected county judge in August, 1851. Eliphalet Price succeeded Judge Williams in 1855, and served five years. O. W. Crary was Judge Price's successor in 1857, and was succeeded by John Garber in 1859, who served two years.

Probate courts were established by the legislature on the organization of the territory. Richard Pearson was the first probate judge for Clayton county, dating his appointment from 1838. He was succeeded by Eliphalet Price, and in turn by Sidney Wood, Andrew S. Cooley, and John Francis. In 1851 county courts were established, having probate jurisdiction, and the probate court, as such, was abolished, the act having been passed at the session of the assembly meeting in the winter of 1850-51. In 1860-61 the assembly re-established probate courts and did away with the office of county judge. The first to fill the office of probate judge at this time was A. C. Rogers, of Garnavillo. Judge Rogers served four years and was succeeded by Charles A. Dean of Monona, who served until legislated out of office in 1868. The first term of the district court "for the county of Clayton in the territory of Wisconsin," was held at Prairie La Porte on the fourth Monday in May, 1838, Hon. Chas. Dunn, district judge, presiding. William H. Banks was appointed attor-

ney for the United States, pro tem, and James Churchman was appointed district attorney pro tem.

In 1868 the general assembly passed an act creating circuit courts. At the same time the office of county judge was abolished, and the business of that office was transferred in part to the circuit court. B. T. Hunt of Elkader, was the first circuit judge, his term beginning January 1, 1869, and continuing four years: Judge Hunt was succeeded by Chas. T. Granger, of Waukon.

The members of the present bar of Clayton county are: J. E. Corlett, V. T. Price, Preston & Fletcher, D. D. Murphy, Everall & Shulte, M. Fitzpatrick, A. R. Cole, Newberry Bros., M. X. Geske, Thomas Updegraff, Robert Quigley, A. Chapin, W. C. McNeil, E. R. Otis, A. H. Borman, Chas. E. Scholz, J. O. Crosby, F. S. Burling, S. T. Richards.

BIOGRAPHICAL.

Eliphalet Price was born in Jersey City in the state of New Jersey on the 31st day of January, 1811, and died at Colorado Springs, Colorado, on December 10, 1880. His father, Eliphalet Price, was a Presbyterian clergyman and instructor in the city of Jersey City, New Jersey. Our subject spent his boyhood in the cities of New Jersey and New York. He was educated in the common schools of his native place and under the instructions of his father until he attained the age of eighteen years, when his father took him to New York City and bound him for seven years as an apprentice to learn the trade of a painter. He read law and was admitted to the bar in the district court of Clayton county, Iowa, and at once entered upon the practice of his profession. He was elected county judge in 1855, and at the expiration of his term he found his health so impaired by asthma as to render him unable to attend to the business of his clients. He then gave such time as his health would permit to literature and writing for the newspapers, journals and

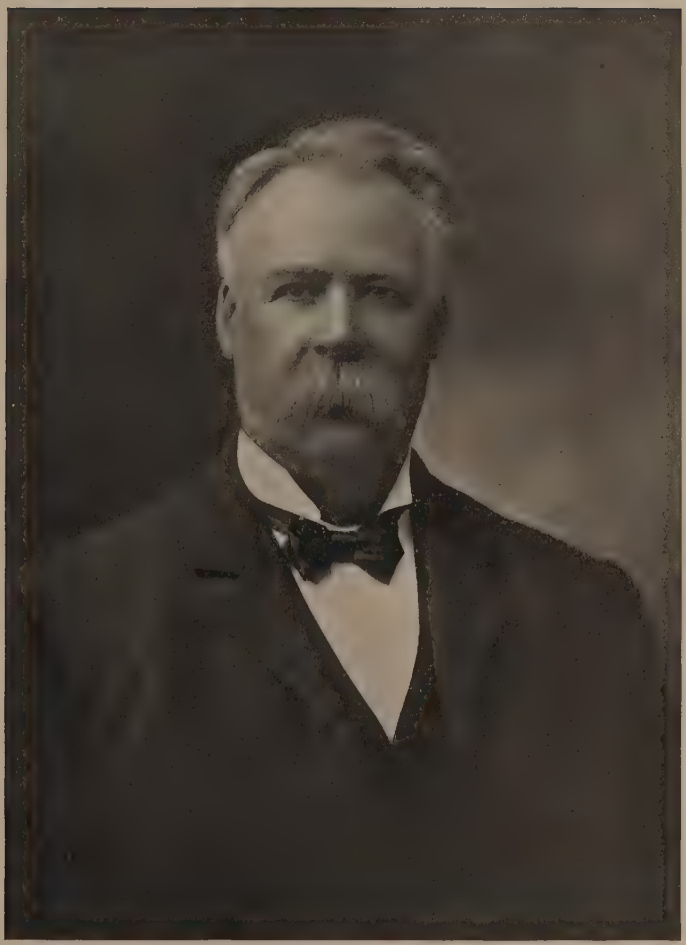
E. Price

magazines. Most of his articles were written over his name or his Nom de plume of "Black Springs," "Glen Fruen," "Alpine Grove,"—those being the names of the farms in Clayton county on which he lived at the time he wrote. While a resident of Colorado Springs, Colorado, his Nom de plume was "Mucilage." Many of his articles attracted the attention of professors and literary men of foreign countries, who translated his articles into their languages and published them in their papers with comments. He was one of the charter members of the Masonic lodge, Prairie La Porte, No. 147, organized August 13, 1859, at Guttenberg, Iowa, and on his death he was buried with Masonic honors by his brethren at Colorado Springs, and many prominent Masons from Denver, Pueblo and other cities were in attendance. And while he will long be remembered for his fine interesting conversational powers and high literary attainments, yet he was a kind, courteous and social friend to all, whether rich or poor, and his sympathies were always aroused at any sign of distress or sorrow, and he was sure to be found "a friend in need."

Realto E. Price was born in Clayton county, territory of Iowa, August 1, 1840, being the second white child born in the county. His father was the late Hon. Eliphalet Price and his mother's maiden name was Mary Lowe Cottle. The subject of this sketch passed his boyhood in Clayton county, attending the common schools, and later the Upper Iowa University at Fayette, Iowa. He read law in the office of Murdock & Hunt, at Elkader, for two years and with Odell & Updegraff, McGregor, one year. The first-named firm was composed of Judge Samual Murdock and Judge B. T. Hunt, and the latter firm of Elijah Odell and Hon. Thos. Updegraff. He was admitted to the bar at the January term, 1863, of the district court of Clayton county, Judge Elias H. Williams presiding. The examination was conducted by Judge Samuel

Murdock, Reuben Noble and Elijah Odell in the presence of Judge Williams. In January, 1863, a co-partnership was formed with B. T. Hunt, under the firm name of Hunt & Price, which continued until January 1, 1869, when the Hon. B. T. Hunt entered upon the duties of judge of the circuit court of Clayton county. Thereafter Mr. Price continued to practice alone until November 1, 1869, when Mr. Marvin Cook became associated with him under the firm name of Price & Cook. This firm was dissolved when Mr. Cook became clerk of the district and circuit courts of Clayton county, January 1, 1873. Mr. Price continued the practice of his profession alone until June, 1891, when his son, Valmah T. Price, having completed a six years' course in the literary and law departments of the University of Iowa, became associated with him under the firm name R. E. and V. T. Price. Mr. Realto E. Price has, therefore, been engaged in the practice of law at Elkader, Iowa, continuously for forty-four years. For many years he has been actively connected with the First National Bank of Elkader as director and president. He is a member of Elkader lodge, No. 72, A. F. & A. M. In his political views he is a republican. Mr. Price is a lawyer of ability and a successful business man. He was married October 16, 1866, to Miss Sarah Filetta Stewart, of Elkader.

Thomas Updegraff was born in Tioga county, Pennsylvania, April 3, 1834. He received a good academic education. He came to Iowa and located in Clayton county early in the 50's and was elected clerk of the district court in 1856. He held that position four years. He read law and was admitted at Elkader, Iowa, in 1860. Mr. Updegraff began to practice his profession in McGregor the year of his admission and has remained there ever since. He served as a representative in the house of the seventeenth general assembly one term and he was elected to the forty-sixth, forty-seventh, fifty-third, fifty-fourth



Realto E. Price

and fifty-fifth congress by the republican party. He is a Royal Arch Mason. Mr. Updegraff is regarded as a first-class lawyer.

Leander O. Hatch was born in Ohio, April 13, 1826. He lived on the farm and aided in clearing and cultivating it until eighteen years old, having the educational privileges of very inferior district schools during the winter months. At eighteen he taught his first district school and continued teaching, studying and working on the farm for about six years.

Part of his studies during this time were of the law. He was admitted to the bar at Cherdon, Ohio, in August, 1849. In 1853 Mr. Hatch immigrated to Iowa, his first winter being spent in teaching school at Hartwick. The following spring he located at Waukon. He immediately opened a law office and practiced there until January 1, 1869, when he removed to McGregor and formed a partnership with Reuben Noble, which continued until Mr. Noble went upon the bench in 1874. In 1855, the next year succeeding that in which he located at Waukon, he was appointed treasurer and recorder of the county, to fill a vacancy, and soon after was elected to the same office. In 1866 he was chosen attorney of the Tenth judicial district. In view of the meagre compensation, he resigned before his term of office had expired. At the time of his resignation he had as partner at Waukon, C. T. Granger, who was afterwards chief justice of the supreme court.

For many years Mr. Hatch was judge of the Thirteenth judicial district and was considered one of Iowa's ablest trial judges.

Samuel Murdock was the first lawyer of Clayton county and the first judge of the Tenth judicial district. He was born in Pennsylvania March 13, 1817. He had a good common school education, was a teacher for a number of years, and then read law. He located in Iowa City

in 1841, following his profession there for about one year, then moved to Clayton county, settling near Jacksonville, now Garnavillo. In 1845 he was elected to the territorial legislature and served two terms. In 1855 he was elected judge of the Tenth district, which then covered ten counties of northeastern Iowa. He held the first court in most of these counties, going on horseback from one county-seat to another. He served in the house of the Thirteenth general assembly in 1869. In 1876 the governor appointed him to fill Iowa's department of anthropology at the Centennial Exposition held at Philadelphia, Pennsylvania. His last public service was at the semi-centennial gathering at Burlington in October, 1896, where he was the principal speaker on "Pioneer's Day." He died January 27, 1897.

Elias H. Williams was born July 23, 1819, in Ledyard, Connecticut. He attended the common schools and prepared later for college, graduating at Yale. After coming west, and during the Black Hawk War, he was in the military service, and was stationed at Fort Atkinson for a time. He located in Garnavillo, Clayton county, in 1846, and engaged in farming and the practice of law, and in 1856 he became a republican, upon the organization of that party, interesting himself in public affairs. He was judge in Clayton county, and from 1858 to 1866 served as judge of the Tenth judicial district. In connection with the practice of his profession and management of his farm, Judge Williams was extensively engaged in promoting railroad enterprises and was influential in securing the Chicago, Milwaukee & St. Paul Railroad, up the shore of the Mississippi river through Clayton county, and also the same road up the valley of the Turkey river.

He was the head of the company that constructed the Iowa Eastern Railroad to Elkader and supplied most of the funds for same. He was a man of integrity and great influence. He died August 20, 1891.

We take the following from the Historical Record written by James O. Crosby:

"Judge Williams was elected the first county judge of Clayton county and held the office two terms. In 1870 he was appointed by Governor Samuel Miller to fill a vacancy on the bench of the supreme court of this state, but served only till his successor, elected at the next following election, had qualified. The published opinions written by him are models of clearness and brevity. He had a retentive memory, and his knowledge was extensive and minute. He was untiring in his efforts to benefit his friends, his neighbors, and the county, state and nation in which he lived. To the young he was an especial friend, and in conferring benefits upon them would present them with such delicacy as to make himself appear the recipient of the favors. While he was district judge we traveled the circuit together and I came to know him intimately. When I first met him, in 1854, I found in him a friend, and so he continued always to be and I never heard him express a thought prompted by an unworthy motive.

"At a meeting of the members of the Clayton county bar, held in open court, September 2, 1891, the following resolution, among others, was ordered to be entered on the records of the district court:

"**Resolved**, that in the death of Judge Williams we feel that Iowa has lost one of its brightest intellects, a mind of high culture, an able jurist, a man of strict integrity and of kind heart."

Many kind and sympathetic words were spoken, and his old pioneer companion, Judge Murdock, paid a glowing tribute to his memory. From the remarks of Hon. Thomas Updegraff, I make a single quotation: "It was a high privilege to be his friend, for to be with him was in itself an inspiration, and even dullness grew brighter in his presence."

Reuben Noble was born near Natchez, Mississippi,

April 14, 1821, but removed with his parents to Jersey county, Illinois, at an early age. His early education was very meager, as he attended school only three months after he was twelve years of age. He worked on his father's farm until he was eighteen, when he decided to make the law his profession. He was only a little past twenty-two when he was admitted to the bar. He began practicing his profession at Fair Play, Wisconsin, in the spring of 1842, but the next year he removed to Jacksonville (now Garnavillo) and opened a law office there in October of that year. Here he continued to practice until 1857, when he removed to McGregor, which continued to be his home until his death, which occurred August 8, 1896.

Although Judge Noble's early educational advantages were of the poorest, he had a great desire for learning, and during the three years of his life from eighteen to twenty-one, in addition to his preparation for the law, he acquired some knowledge of Latin, and also of literature and science. With this, however, he was not content, but he continued a student, not only of law, but of knowledge in general, to the day of his death, and he was regarded as a well-educated man.

But the law was his chief study, and to this, and the practice of his profession, he applied himself so well and with such ability that he soon came to be recognized as one of the foremost lawyers of Northeastern Iowa. He possessed in a high degree the power of grasping the strong points of a case. For trickery and cunning in court trials he had only contempt.

In 1854 Mr. Noble was elected a member of the general assembly from Clayton county, and was chosen speaker of the house for the regular session and also for the special session held in 1855. He was a member of the convention which nominated Lincoln for president in 1860. In 1874 he was elected judge of the Tenth—now Thir-

teenth—judicial district, and was re-elected in 1878, but resigned before the end of his second term. He was twice nominated for judge of the supreme court, declining the first nomination, and to the second paying no attention whatever.

After Judge Noble's resignation as district judge, he formed a partnership with Hon. Thomas Updegraff for the practice of the law at McGregor, and he carried on the work of the office during the latter's first two terms in congress. This partnership was dissolved about the year 1890, Mr. Noble retaining the law business of the Chicago, Milwaukee & St. Paul Railway Co., which he held until the time of his death. In his private as well as in his public life, Mr. Noble observed Blackstone's maxim: "Man should live honestly, hurt nobody, and render to everyone his just dues."

Byron W. Newberry was born at Brownhelm, Ohio, September 1, 1853. He is the son of James and Maria H. (Westfall) Newberry. His parents came to Clayton county in 1855, and Byron received his education in the common schools and the Upper Iowa University at Fayette, Iowa, where he graduated in class of 1875. He attended also the Iowa State University, graduating from the law department of that institution in 1876, and he was admitted to the bar that year. In February, 1877, he located at Strawberry Point, Iowa, where he has since been engaged in the practice of his profession. In 1887 he formed a partnership with his brother, Charles W. Newberry, under firm name of Newberry Bros., which still continues. He is a republican. Was elected senator of the Thirty-sixth district in 1903. He served in the Thirtieth and Thirty-first general assemblies, and is still a member of the senate.

G. H. Schultz was born January 21, 1866, at Clayton, Clayton county, Iowa. He acquired his education in the public schools and attended the Iowa State College at Ames, graduating in 1890.

He took up the study of law in the law department of the Iowa State University in 1891 and finished in the office of W. A. Preston at Elkader, Iowa. He was admitted to the bar in 1894 before the supreme court at Des Moines. He practiced for a short time at Clayton, Iowa, and later formed a partnership with John Everall at Elkader, which continued until January, 1906, and since that time he has been alone. In 1890 he had charge of the signal corps of Iowa, when it was being reorganized. He is a democrat, and is mayor of Elkader, having been elected three successive terms. He was elected to the legislature of Iowa—house of representatives—November 6, 1906.

James O. Crosby was born March 22, 1828, in the village of Lake George, Warren county, New York. His father was Nathan Crosby and his mother was Melinda (Bishop) Crosby. He spent his boyhood at Lake George, Syracuse, Seneca Falls, Little Valley, Ellicottville, New York. He was educated in the common schools, Seneca Falls and Fredonia Academies. He read law at Ellicottville and at John W. Fowler's law school at Cherry Valley, New York. He was admitted to the bar at the old capital in Albany, New York, May 9, 1849. In September, same year, he formed a partnership with William Pitt Angel for one year, at its expiration with Daniel G. Bingham at Ellicottville, New York. In 1854 he moved to Garnavillo, Clayton county, Iowa. For a short time was a partner of Elijah Odell, and later with Alonzo Brown till 1861. Since then he has practiced alone until he retired 1902. His career at the bar was simply attentive to his practice as faithfully as he knew how. He is president of Clayton County Bar Association, a member of the Iowa State Bar Association, the American Bar Association and the International Law Association. A republican in politics. Under code of 1851, member of "Commission of Legal Inquiry." Appointed by Governor Merrill mem-

Yours Truly
W. A. Preston

ber of first commission for New Capital in 1870-2. He served as a member of the Iowa Columbian Commission to Chicago World's Fair.

William A. Preston was born in Monroe county, Illinois, in 1839. His parents were James and Elizabeth Preston, the former a native of Virginia and the latter of Illinois. In 1853 the father moved with his family to Iowa, and settled on a farm at the place now known as Edgewood.

William attended the common schools in Illinois in his early boyhood and after the family settled in Iowa, went to the district schools there for a time. At the age of seventeen he entered Cornell College at Mt. Vernon, Iowa, and finished his schooling at Upper Iowa University, when he was associated with the late Hon. D. B. Henderson.

After leaving the University, young Preston taught school for a time, and then spent three years as traveling salesman for the school furniture house of A. H. Andrews & Co., of Chicago. Without his knowledge, till notified of his election, he was chosen superintendent of public schools for Clayton county, Iowa. This was in November, 1867, and he went to Elkader, January 1, 1868, intending to resign the office, but yielding to the earnest solicitation of friends, among whom was Mr. S. T. Woodard, he changed his mind and devoted himself to the schools of the county, and at the same time employed his spare moments in studying law. After the expiration of his term of office he continued his law studies, and January 31, 1871, was admitted to the bar at Elkader, and during the same year was admitted to practice in the United States courts, and was admitted to the supreme court of Iowa April 23, 1880.

On his admission to the bar Mr. Preston began his practice as a partner with S. T. Woodard, and continued that relation till 1876. Mr. Preston has been in con-

tinuous active practice at Elkader since January 1, 1871, and has been of a general character, and has embraced many important cases, taking lines into all branches of the State and United States courts.

Mr. Preston is a staunch Republican, and cast his first presidential ballot for Abraham Lincoln. He is of the order of Odd Fellows, also belongs to the United Workmen.

CLINTON COUNTY.

HISTORICAL AND BIOGRAPHICAL.

The legal history of Clinton county begins with the act of congress approved June 12, 1838, entitled "An Act to divide the Territory of Wisconsin and to establish the Territorial Government of Iowa." Prior to that date the territory now comprising Clinton county was included in that of the county known as Dubuque, in the territory of Wisconsin, the seat of government of which, and the place for holding court, being Dubuque. In November, 1837, however, the legislature of the territory of Wisconsin created the present county of Clinton, and the first territorial legislature of Iowa, which convened at Burlington in November, 1838, divided the state into three judicial districts, and placed Clinton county in the third. On the 12th day of October, A. D. 1840, the first term of court for this county was convened at Camanche, by Associate Justice Thomas S. Wilson, of Dubuque. The clerk of the court was Martin Dunning, and the sheriff of the county, James D. Bourne, both appointed March 23, 1840, by Justice Wilson. The civil proceedings of the court were conducted according to the forms of the common law. But four cases were tried at that term; all appeals from justice of the peace courts. The first involved the ownership of a yoke of oxen; the next two were suits for small claims resulting in judgments for the plaintiffs in the sums

of $5.25 and $17.13 respectively; and the fourth, an action of forcible entry and detainer, was decided for defendant.

The only criminal business of the term was the finding by the grand jury of four indictments against the notorious Timothy Bigelow, Lorenzo Bigelow, and one Richard Cox, for forgery, counterfeiting, and having in possession certain apparatus for counterfeiting. This Timothy Bigelow was the same Bigelow who occupied a claim in the woods upon the banks of the Mississippi river, a portion of which is now within the limits of the city of Clinton, one of the boundaries of which is now known as the "Bigelow claim line," so often alluded to in descriptions of land in that vicinity. Upon this claim he maintained a spurious coin factory which furnished a good proportion of the money then in circulation. For years afterward counterfeit coins were occasionally found upon this claim near the site of his house. J. A. Bradford was prosecuting attorney. Court remained in session at this term but two days.

The next term was held April 13th and 14th, 1841, Justice Wilson again presiding. Business, as at the first term, was light; the most important being the report by William Miller, of Cedar county, Andrew F. Russell, of Scott county, and Wm. A. Warren, of Jackson county, commissioners appointed by the Iowa legislature to locate the seat of justice of the territory for Clinton county, that they had "located the seat of justice of said county by setting a stake at or near the center of the north half (½) of Section Eighteen (18), Township Eighty-one (81) North, Range Four (4) East of the Fifth principal meridian, and by naming the said seat of justice, as the law prescribed, being in accordance with the will of the people as near as we could ascertain the same, Vanderburg." The county-seat was accordingly moved to this point, and later the first court-house for the county was erected there. This name was afterwards, in 1842, by act of leg-

islature, changed to DeWitt, upon petition of the inhabitants, that name being considered more appropriate, as the county had been named after Governor DeWitt Clinton, of New York.

Justice Wilson continued to preside over this court until Iowa was admitted to the Union as a state in 1846. He was afterwards elected judge of the state district court in 1852, and served for about one year, when he returned to private practice in Dubuque. He died at his home in Dubuque, May 16, 1894, aged eighty years and seven months. His daughter, Eliza Hoge Wilson, is the wife of one of the oldest members of the Clinton county bar, Hon. Henry F. Bowers, having been married to him September 26, 1901.

Many interesting stories are told of the experiences of this pioneer judge in the days before railroads or even stage-coaches in Iowa, as he traveled over his large district upon horseback. When he came from Ohio to Dubuque and was appointed by President Van Buren, he was only twenty-five years of age, and looked even younger. About the first term of court held by him was at Burlington. Just before the adjournment of court a steamboat arrival was announced, an event always of interest in those early days. Judge Wilson requested Gen. Gebon, marshal of the district, to secure a berth for him to his home in Dubuque, which he did, and returned with the number of the judge's stateroom. The judge, with his carpet bag, wended his way to the boat, and, knowing the number of his stateroom made a bee line for it, but was intercepted by the captain, who demanded what he was doing there. The judge, though unknown to the captain, knew him by sight and told him that it was his room. "No, sir," responded the man of authority, "it is not. That room has been engaged by Gen. Gebon for the judge who is going to honor me by his company to Dubuque, his home, as soon as he can adjourn court and I

am to wait for him." "But," said the judge, "I know the judge well, am a friend of his, and always accompany him to and from court." "That may be," responded the captain, "but you can't take that room until the old judge comes and gives his consent." Just then Gen. Gebon entered the cabin and, seeing the judge, said: "Did you find your room, judge?" "Yes," was the response, "but the captain won't let me have it." The general took in the situation at once and introduced the judge and captain, when the latter remarked his astonishment and said: "In my country—an older state—they make judges of old men, not of boys."

One of the earliest and most famous of Judge Wilson's cases is In re Ralph (a colored man) on habeas corpus, celebrated as being the announcement by the Iowa court of a rule just the opposite of that afterward adopted in the famous Dred Scott decision. Ralph, a colored man, was permitted by his owner, one Montgomery, to come into the territory of Wisconsin to earn money with which to buy his freedom. Money in those early days, however, was scarce, the delay was long, Montgomery became impatient, Ralph would not return, and a reward of $100 was offered for his capture. He was taken in the field by persons working for the reward, hand-cuffed, brought before a justice of the peace in Dubuque county and, upon order of the justice, delivered to his captors, who took him to Bellevue to await a steamer enroute to Missouri, to be there delivered to his owner. A neighboring farmer named Alexander Butterworth witnessed his capture, hastened to Dubuque and procured from Judge Wilson a writ of habeas corpus. Upon Ralph being produced before him, Judge Wilson decided that the question involved in the case was so important that it should be decided by the full bench. The matter was thereupon certified to the supreme court, which, in July, 1839, decided that he should be released, holding that "When a slave with his master's

consent becomes a resident of a free territory or state, he could not be regarded, thereafter, as a fugitive slave, nor could the master thereafter exercise any rights of ownership over him." These three judges were all democrats.

Judge Wilson's first successor, and the first judge to sit upon the state district bench for this district, was Judge James Grant, of Davenport. The new constitution of Iowa, had divided the state into four judicial districts, placing Clinton county in the second. He held his first term of court in this county in May, 1847, the term convening May 10th, and closing on the 12th. Judge Grant served in that capacity for five years, when he resumed his practice as an attorney, became one of the leaders of the Iowa bar, and is still remembered for his learning and ability. It is told of him that, being late at the opening of a term of court at DeWitt, owing to the condition of the Wapsipinicon river, which he was obliged to cross upon his way from Davenport, he had the clerk enter a fine of fifty dollars against himself for contempt of court in not being on time and so delaying its business.

A long line of excellent judges has succeeded these two strong men and the bench of this district has always ranked as among the strongest in Iowa. A list of these judges, with the number of the district Clinton county was then in, is as follows:

1840 to 1847, Thomas S. Wilson, Dubuque, 3rd; 1847 to 1852, James Grant, Davenport, 2nd; 1852 to 1853, Thomas S. Wilson, Dubuque, 8th; 1853 to 1854, Wm. E. Leffingwell, Lyons, 8th; 1854 to 1854, I. B. Boothe, Bellevue, 8th; 1854 to 1857, Wm. H. Tuthill, Tipton, 8th; 1857 to 1858, A. H. Bennett, Tipton or Davenport, 14th; 1858 to 1863, John F. Dillon, Davenport, 7th; 1863 to 1874, J. Scott Richman, Muscatine, 7th; 1874 to 1875, William F. Brannan, Muscatine, 7th; 1875 to 1886, Walter I. Hayes, Clinton, 7th; *1887 to 1887, John N. Rogers, Davenport, 7th; 1887 to 1888, A. J. Leffingwell, Lyons, 7th;

1887 to 1903, W. F. Brannan, Muscatine, 7th; *1887 to 1898, C. M. Waterman, Davenport, 7th; 1888 to 1892, Andrew Howatt, Clinton, 7th; *1892 to 1904, P. B. Wolfe, Clinton, 7th; *1892, Allan J. House, Maquoketa, 7th; *1898, James W. Bollinger, Davenport, 7th; 1903, D. V. Jackson, Muscatine, 7th; *1904, Arthur P. Barker, Clinton, 7th.

The Third judicial district was composed of Jackson, Scott, Dubuque, Clayton and Clinton. The Second of Muscatine, Scott, Cedar, Clinton, Jackson, Jones, Dubuque, Delaware and Clayton. The Eighth of Muscatine, Scott, Cedar, Jones, Clinton and Jackson. The Fourteenth of Scott, Clinton, Jackson. The Seventh has always been the same as now, Jackson, Clinton, Scott and Muscatine.

When the Twelfth General Assembly in 1868 created the circuit court, Judge George B. Young was county judge. He was elected circuit judge, and held office until he resigned in 1872, to go into partnership with Walter I. Hayes. Under the act creating this court, Clinton county was placed in the Second circuit. Afterwards, in 1872, it was provided that there should be but one circuit judge in each judicial district, and still later, in 1878, this district

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* The Twenty-first general assembly, by an act taking effect January 1, 1887, abolished the circuit court and provided that the Seventh judicial district should have three judges. Judge Rogers, who was elected as one of these, died within the year, and Judge Waterman was appointed as his successor.

The Twenty-fourth general assembly provided for an additional judge for the Seventh district, and Judge House was appointed to that office. Judge Wolfe was appointed to succeed Judge Howatt who resigned, and Judge Bollinger to succeed Judge Waterman, who resigned to go upon the supreme bench. Judge Wolfe resigned to go into practice with his son, and Judge Barker was appointed his successor.

was again subdivided into two circuits. The circuit judges who held court in Clinton county are as follows:

1869 to 1872, Geo. B. Young, Clinton; 1872 to 1881, Daniel W. Ellis, Lyons; 1881 to 1885, Charles W. Chase, Clinton; 1885 to 1887, A. J. Leffingwell, Lyons.

The county court was established in 1851. The first county judge for Clinton county was A. R. Cotton, who served from 1851 to 1853. He was succeeded by Edward Graham from 1853 to 1856; Daniel McNeil, 1856 to 1860; John C. Polley, 1860 to 1864; Pitkin C. Wright, 1864 to 1866; George B. Young, 1866 to 1868, when the court was abolished.

BIOGRAPHICAL.

So far as can be ascertained, at the time of holding the first term of court in Clinton county no lawyers resided in the county. The first resident attorney, as reported upon the authority of Hon. A. R. Cotton, himself one of the earliest in the county, was **Samuel R. Murray,** who located in Camanche in 1840. He died at Dubuque in 1844, while in attendance upon the public land sales. **J. S. Stowers** came to DeWitt in 1844. He is still living at Wheatland, though not in active practice. Others soon followed.

William E. Leffingwell came from Muscatine county in 1845, and located at DeWitt. It is reported that for a time he lived upon a farm near Elvira, which report is probably true. Mr. Leffingwell afterwards moved to Lyons, and later practiced in Chicago, but retained his residence in Lyons, where he died August 13, 1884. Judge Leffingwell was tall, erect, dark of hair, eyes and complexion. He was prominent in Masonic circles and a full length picture of him in full Masonic uniform is one of the ornaments of the consistory rooms in Lyons. He was a natural orator, and among the traditions of the Clinton county bar are the stories of his eloquence and legal victories. His fame as an orator and advocate soon became more than state-wide.

A. R. Cotton was admitted to practice by the district court of Clinton county, May, 1848. He lived first at DeWitt, then at Lyons, finally moving to Clinton. Though rather short of stature and slight of build, he was one of the intellectual giants of his time, which, with his unswerving integrity and fidelity to his clients' interests, soon brought him a large and lucrative practice. He was elected to congress from this, the Second district of Iowa, in 1870, and served two terms. He moved to California in 1883, where he has built up a large business, and is still hale and hearty and in active practice. In this connection an extract from a communication to the Lyons Mirror, written by Judge Chas. A. Pollock, of the North Dakota district bench, residing at Fargo, upon reading in that paper an account of the death of **Hon. Lyman A. Ellis,** will be of interest.

"In 1864, when living at the county seat, DeWitt, I had occasion every day not only to see Mr. Ellis, but all the other attorneys who practiced at the bar. You will remember the court was presided over by that prince of judges, Judge John F. Dillon, then of Davenport, now of New York city. In those olden days there was Dillon on the bench, and at the bar Judge Cotton, the leading civil lawyer, with Leffingwell (W. E.), the most prominent defender of criminals (or innocent men I had better say, because most of the juries did what Leffingwell demanded), and Lyman A. Ellis as public prosecutor. Being only eleven years old then, I was not engaged on either side of the legal affrays, but was happy only when selling apples to judge, counsel, witnesses and jury alike.

"When either of those four gentlemen would 'get down to business' in their respective departments, the apple trade went completely out of my mind. In boyish fancy I thought them the greatest and most intellectual men on earth.

"Fortunate indeed is any community to have had in

its formative period men at the bar and on the bench with such high professional aims as Judge Dillon and Messrs. Ellis, Leffingwell and Cotton. In saying this, one does not necessarily approve of every individual act of each—for they all had their faults—who does not?—but for sterling integrity, patient industry, faithfulness to their clients, love of keeping high the honor of the profession, and withal a fondness for our institutions and the government under which we live, they one and all were peers, and were outrivalled by no others.

"Whenever the history of the courts of Clinton county may be written, let there appear, with words of the highest praise, the names of Dillon, Ellis, Cotton, Leffingwell —two of whom have now entered the silent city of the dead."

Daniel W. Ellis was admitted in 1854. He was circuit judge for nine years. After retiring from the bench he removed to Minneapolis, Minnesota, where he still resides.

Nathaniel A. Merrill was admitted May 15, 1856. He resided at DeWitt, was a member of the Iowa house of representatives, later state senator for one term, again a member of the house, and he died in December, 1896.

Isaac Baldwin was admitted in Massachusetts in 1853; in Iowa in 1856. He resided in Clinton until about 1900 when he removed to Chicago, where he still resides.

Joseph H. Flint was admitted in Maine in 1850, and in Iowa in 1856. He located in Lyons, removed to Clinton, and died September 21, 1891.

Jesse Stein was admitted in 1860, located at Wheatland, where he died. (Date unknown.)

A. J. Leffingwell was admitted in Muscatine in 1860. He was a brother of Wm. E. Leffingwell. He removed to Lyons in 1861; was the last judge of the circuit court; served a portion of a term as judge of the district court, and died in 1888.

Mrs. J. Ellen Foster was admitted in 1874. She resided in Clinton, and was the first woman in Iowa admitted to practice law, and the first to be admitted to the supreme court of any state. Mrs. Foster is now a resident of Washington, D. C., and her fame as a lecturer and temperance advocate has become national.

E. C. Foster was admitted in 1864; located in Clinton; removed to Washington, D. C., where he still resides.

Andrew Howatt was admitted in 1870; located in De Witt; served one term as county attorney and one as district judge. He removed to Salt Lake City, Utah, where he has built up a large practice and still resides.

Chas. A. Smith was admitted in 1874. He located in Clinton, became United States internal revenue collector, and died in January, 1881.

I. R. Andrews was admitted in 1872; located in Clinton; removed in 1889 to Omaha, where he enjoyed a good practice, and died in 1905.

John I. Mullany was admitted in Dubuque in 1872. He came to Clinton, but returned to Dubuque, where he is now deputy clerk of the district court.

The foregoing is, of course, only a partial list of the more prominent of the earlier attorneys who practiced in the Clinton county courts. Among those who belonged to a later period and are still remembered as leaders at this bar, though now passed to the great beyond, are the following:

Eli Stillman Bailey, or, as he was familiarly known to his friends and associates, Major Bailey, was born in Kingsville, Ashtabula county, Ohio, July 22, 1827. He was the son of Rev. Jacob and Sybil Bailey, and the grandson of Colonel Silas Bailey, a soldier in the Revolutionary War. He was for some years a student at Madison University, Hamilton, New York, but graduated in 1849 from Union College. In the fall of 1849 he entered the law office of James W. Nye, then judge of Madison

county, afterwards governor of Nevada, and United States senator from that state. In 1855 he went to Syracuse, was admitted to the bar, and soon afterward entered the law firm of Forbes, Nye & Sedgwick in New York City. In 1856 he came to Clinton county and located at DeWitt. In 1857 he married Annie E. Sears of DeRuyter, New York. The marriage was an exceedingly happy one. Two daughters, Mary and Annie, were born to them. He was never so happy as when in the midst of his family. Conspicuous among his virtues, which were many, was his tender love. This endearing quality led him to preserve all the beautiful amenities of life in his home circle, which was a model of affection and courtesy. In 1860 he went to Janesville, Wisconsin, and formed a law partnership with his brother-in-law, I. C. Sloan, but when the loud clamor of war called for men, he entered the service of his country and was commissioned paymaster in the army with the rank of major. The rank of lieutenant-colonel by brevet was conferred upon him at the close of the war. In 1866, upon leaving the service, he returned to Iowa and settled at Clinton where, until his death, November 5, 1892, he continued to practice his profession. From 1889 to 1892 he associated with him A. P. Barker, under the firm name of Bailey & Barker. He was eminently a corporation lawyer, and at the time of his death represented all of the railroads running into Clinton, as well as most of the important corporations of that city. He was president of the Merchant's National Bank, a director in the Clinton National, a 32nd degree Mason, and, with the exception of one year, was the president of the Wapsipinicon Club since its organization. As a lawyer he was one of the leaders of the bar of this county and ranked among the best in Iowa. His name will be found as counsel in many of the most important cases decided by our supreme court.

George B. Young was the son of Rev. ——— Young,

a Presbyterian clergyman. He was admitted to practice in this county in 1862, and for a time resided in Camanche, afterwards moving to DeWitt, and later to Clinton, where he continued to reside and practice until his death, in July, 1893. He was county judge from 1866 to 1868, when that court was abolished and later served as district judge for three years, resigning to enter practice with Walter I. Hayes. He was not a trial lawyer, but early became one of the best examples of the modern business lawyer. As a result, he built up the largest practice in the line of commercial and business law ever held by any Clinton lawyer. He was for years the general Western attorney for Marshall Field & Co., and traveled from Michigan to Texas and California, looking after the larger interests of that great concern. He used to tell with much glee a story, not without its morals, of one of his Texas experiences. A large dry goods dealer in that state had failed, owing Marshall Field & Co. about twenty thousand dollars, and Judge Young hastened to the scene of the wreck to do what he could to secure all, or a portion at least, of that debt. He found that the failure was complete and hopeless. The debtor, however, Col. B—— we will call him, owned a magnificent hotel building, worth much more than Judge Young's claim, entirely unencumbered, in a fine suite of rooms of which he and his wife resided, thereby making it his homestead, exempt under the laws of that state. The Judge called upon the Colonel; told him his errand and was received with the utmost cordiality. "I am sorry, sah, very sorry, indeed, for this calamity. Marshall Field & Co. were among my best friends and it cuts me to the quick, sah, to have them lose a penny through me." The Judge appreciated this fine sentiment and suggested that his principals did not need the money and that, with proper security at a very low rate of interest, he was prepared to give the Colonel any desired length of time. "But, sah,"

responded Colonel B——, "You see I have no means, sah, of giving any security glad as I shall be to do so." Judge Young suggested the hotel as being unencumbered and ample. "That, sah," said the Colonel, 'is by law my homestead, and to encumber that is impossible." After some further diplomatic talk the Judge became a little impatient and asked the Colonel how he could pose as an honest man and yet take advantage of a legal technicality and so withhold so valuable a property from his creditors, at which the Colonel indignantly responded, "Dam me, sah, Dam me, do you expect a man to be more honest THAN THE LAWS OF HIS COUNTRY?" a doctrine which apparently meets the approval of many citizens, from railroad and oil magnates and packers down.

Judge Young was an active member of the Presbyterian church, a 32nd degree Mason, very public spirited and, during his life, one of Clinton's most active and useful citizens.

Albert Russell McCoy was born at Fulton, Illinois, September 24, 1846. He was the son of James and Elizabeth McCoy. His father, "Judge McCoy" as he was widely and familiarly known throughout Northwestern Illinois, was a successful lawyer, a pioneer in Whiteside county and prominent in the business and political affairs of that part of the state. The schools of Fulton and Western Union College furnished an education for the son. He studied law in his father's office and was admitted to practice in 1869. While still a young man he was a controlling influence in politics, and served as a member of the board of commissioners of Whiteside county and was for two years its chairman. Afterwards he represented that county in the state legislature, being the youngest member in the house. His father and brother were republicans, but he embraced the democratic faith, thus early in his career giving evidence of his independent mind and faithful adherence to his own

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convictions. In 1870 he was married to Miss Fanny A. Conger. To them was born one son, Russell B., now a practicing attorney at Clinton as a member of the firm of Ellis & McCoy, his partner being Frank W. Ellis, son of Lyman A. Ellis, with whom the subject of this sketch was in partnership for several years under the same firm name. He came to Clinton in 1875, and at once entered upon a general practice, which increased in size and importance until at the time of his death his firm undoubtedly did the largest business of any in Clinton county. He held the office of city solicitor of Clinton city, and for seven years, from February 23, 1888, to January 1, 1895, he was county attorney of Clinton county. He was offered by his brethren at the bar the appointment as judge of the district court, and could have had the nomination at the hands of his party as a candidate for congressional honors. He declined both, however, to cling to his practice as a lawyer. For a long time he was the law partner of Hon. Lyman A. Ellis, and later of his brother, Hon. W. J. McCoy. Early in 1895 he and his family first learned that he was the victim of the disease which finally caused his untimely demise. He then abandoned his practice and in the sunny south sought to regain his lost health. It was too late, however, and on the 30th of September, 1896, he crossed to join the immortals.

Mr. McCoy was unusually gifted as an advocate and orator. He was particularly brilliant at the forum, and when important criminal trials came on and he was incited to his best by worthy opponents, such as J. S. Darling, who was one of the leading defenders, the courthouse would be thronged with those drawn by the spell of his eloquence. With all his natural ability, however, he abated not one iota of any effort he deemed necessary to properly prepare his cases, and beyond doubt his untimely end was brought about by his unceasing devotion, day and night, to his professional duties. As is usual with

great orators, Mr. McCoy possessed a fund of humor which he often used effectively. As an illustration: At one time he was employed by an eastern clergyman, who had been appointed by the Clinton county court guardian of the funds of a minor, to prepare and present for approval an annual report of such guardian. The business was all transacted by mail, and, after the report had been properly approved, Mr. McCoy, at the guardian's request, sent him his bill for the services rendered. The bill was quite moderate, but to the mind of the frugal clergyman it was somewhat large; so he promptly demurred to its size, closing his letter by the remark that he would suggest that hereafter in making out his bills the lawyer first consult the Scriptures, in which he would find the true rule for such matters. Mr. McCoy in due time replied that he had carefully read and considered the advice given, but not being very familiar with the book referred to, had given to it such study as his time permitted, and that the only text he had found which seemed to him to apply to the case in hand, was Luke X, 7, "The laborer is worthy of his hire." The fee was promptly remitted without further comment. As citizen and in his party counsels he wielded a wide influence, though he was not ambitious for political honors for himself. He numbered among his friends people in all walks of life.

Walter I. Hayes was born in Marshall, Michigan, on the 9th day of December, 1841, the son of Dr. Andrew L. and Clarissa Selden (Hart) Hayes. He died at the same place March 14, 1901. Few members of the Clinton county bar have attained so wide an acquaintance and reputation as he. He received his early education at a fine private school of his native town, and at the age of nineteen began the study of law in the office of Hughes & Wooley. He graduated from the law school at Ann Arbor in 1863. In 1866 he came to Clinton and entered into partnership with Nathaniel B. Baker, adjutant-general of

Iowa. General Baker moved to Des Moines in about two years and Judge Hayes continued to practice alone until 1872, when he entered into partnership with Judge Geo. B. Young. This partnership continued until 1875, when Judge Hayes, having been recommended by the bar of the district, was appointed to the office of district judge by Governor C. C. Carpenter. This position he held until he was elected to congress in 1886. He served as congressman for three terms, and upon retiring resumed practice in co-partnership with his nephew, A. L. Schuyler. During his career he was city solicitor of the city of Clinton, for four terms, and in 1876 he was the democratic candidate for justice of the supreme court of Iowa. June 28, 1865, he married Frances Coan, daughter of W. F. Coan, founder of the Clinton National Bank. This firm was one of the leading and successful law firms of Clinton. At the time of his death it represented the C. M. & St. P. Ry. Co. there, and many other important interests. He was a director in the Merchant's National Bank.

Judge Hayes was a man of energy and of strong, decided character in whatever position he was placed. He achieved a wide success, had many friends, and there were few indeed who were not attracted by his genial kindness. He died of heart failure while on a visit to his old home, and was in active practice up to that time.

Lyman A. Ellis was born near Burlington, Vermont, March 7, 1833. The family home was on the eastern shore of Lake Champlain, and in that locality he attended the district school and at the age of eighteen began teaching. In this way he was enabled to meet the expenses of an academic course in Bakersfield and Colchester, and to pursue a course of lectures in a law school in Vermont. He was admitted to the bar, and in 1855 came to Clinton, where he arose at once to prominence, and ever afterward, until he retired in 1902, maintained a place in the

foremost ranks of the profession in this state. In 1861 he was elected district attorney of this judicial district, consisting then, as now, of Clinton, Scott, Muscatine and Jackson counties. In this office he became famous for his skill and eloquence as an advocate and trial lawyer, and was re-elected three times, holding the office for sixteen years, retiring in 1877. In 1893 he was elected to the state senate, served one term, and declined a re-nomination.

In his early practice Senator Ellis was associated with his brother, Daniel W. Ellis. Later he was in co-partnership with A. R. McCoy, under the firm name of Ellis & McCoy, and, after the dissolution of that firm, until his retirement, was engaged in practice with his son, Frank W. Ellis. For some little time before his demise he was in feeble health and did not appear in court, though he never lost interest in all that pertained to the profession. He died June 8, 1906.

As a lawyer Senator Ellis was a powerful advocate, well learned in the law, and of great resources. As an orator he had few equals. Tall, spare, and commanding of stature, with a wonderful command of language, he would convulse an audience or jury with his quaint humor, the next moment melt them to tears with his pathos, or rouse them to indignation by his fiery denunciations of wrong.

He was eminently a self-made man, and in the course of the making had acquired a manner of speaking and gesticulating which was very striking and peculiarly his own, and thereby hangs a story illustrative of his native and original humor. This story is told in a recent publication as being related by Secretary Shaw, who knew Senator Ellis well.

During the trial of a case in the district court at Tipton, Cedar county, he was opposed by a young lawyer who had never met him before. The case was one in

which the public were largely interested and the court room was crowded. Mr. Ellis was for the plaintiff and had the opening and closing to the jury. His young opponent realized the importance of winning his case, and was watchful for any means of making an impression. As the Senator made his opening address his young opponent watched him closely and thought his opportunity had come, so, during his answer, he would pull down his cuffs, stroke his chin, finger his collar and made gesture for gesture all of those characteristic movements with which those who were accustomed to hear Mr. Ellis speak were so familiar. The young man was a good imitator and soon had the jurors and audience laughing at his antics; so he rushed on to his fate and sat down well pleased with himself. The Senator rose to reply and said, "The young man who has just preceded me has all of the bearing and gestures of a cultured gentleman, but his ideas and language are those of an imbecile." A shout went up that nearly raised the roof. History does not give the result of the trial.

Senator Ellis was married November 12, 1856, to Miss Mary Buckley, who survives him. Of his six children, two are successful lawyers; one, Daniel B., of the firm of Rogers, Cuthbert & Ellis, of Denver, Colorado, the other Frank W., of Clinton; two are successful business men; the fifth, a physician; while the daughter, Gertrude M., is the wife of one of the prominent business men and financiers of Clinton, **Garrett E. Lamb.**

William C. Grohe was born at Jefferson county, New York, in 1849. His father's family came from Germany, settling in Northern New York in 1818, and his mother's family were from New York State. They came to Iowa in 1860. His education was had at the public schools and Cornell College, Mt. Vernon, Iowa. He read law with Ellis Bros., of Clinton, Iowa, for two years and was admitted to practice in 1872. The same year he began the

practice of law at Lyons with Nathan Corning. This partnership continued for five years. In 1893 he joined partnership with his nephew, W. H. Childs, which continued until the death of Mr. Grohe in 1898. He was a republican and took active interest in politics all his life, but never held an office.

Edward S. James came to Clinton from Mechanicsville in 1891. He was then about thirty years of age. He had been in practice at that place for some years. He was a young man of more than usual brilliancy, and soon acquired a practice here and was appointed by Judge Shiras referee in bankruptcy. He died in November, 1902.

The Clinton County bar, at present, is composed of about fifty-five lawyers, of whom, however, only about thirty-nine are in actual practice of their profession.

Charles W. Chase was born December 8, 1835, in London, New Hampshire. He attended the common schools at Groton, and took an academic course at New Hampton, and attended Dartmouth College two years, and left college in 1861 to go to the war. In 1862 he was admitted to the New Hampshire bar. He read law with Col. Thomas J. Whipple of Laconia, New Hampshire. Mr. Chase came to Clinton, Iowa, in 1865, and at once began the practice of law with Myron H. Tyrrell. This partnership lasted one year. After that he was alone in general practice.

Mr. Chase was Captain of Company G. 12th New Hampshire Volunteer Infantry from 1862 until 1865. He was clerk of the court of Clinton county for four years and judge of the circuit court, second circuit, seventh district of Iowa, for four years; solicitor for the city of Clinton for two years; also mayor two years. In 1893 he formed a partnership with H. W. Seaman under the firm name of Chase & Seaman. He is president of the Weston Company; a director in the Anderson & Winter Manufacturing Company and in the City National Bank.

Charles M. Chase

Patrick B. Wolfe was born in Chicago, Cook county, Illinois, October 7, 1849, the son of John R. and Hannora (Buckley) Wolfe. Both father and mother came from Ireland in 1848. The family came to Clinton county May 5, 1854. Patrick B. walked six miles to attend the public schools of Clinton. He was two years at Christian Brothers' academy at La Salle, Illinois. He then took a two years' course at the State University of Iowa, and was admitted to the bar in 1870. He began to practice alone January, 1871, at DeWitt, Clinton county. Later for ten years he was in partnership with W. A. Colton. He continued there until May, 1891, when he removed his office to Clinton, leaving his family at DeWitt until October, 1893, when they moved to Clinton. Since resigning the office of district judge in 1904, he has formed a partnership with his son, John L., and they are doing a general law business. He was elected city attorney of DeWitt in 1874, and held the office for five or six years, until he resigned. In 1878 he was elected on the school board, remaining on same until he resigned in 1893. He was in the state senate in 1885, served until he resigned in 1891, when he had yet the last half of second term to serve. He was appointed judge of the district court November 15, 1891, by Horace Boies, and served until September, 1904, when he resigned, the appointment having been made through written request by practically every member of the bar in the seventh judicial district. He is a democrat.

Joseph S. Darling was born March 3, 1830, near St. Catherine's, Ontario. His father and mother settled in Jackson county, Iowa, in 1850. His education was in the common schools of Canada and under a private tutor, Donald McLeod, who died only a few years ago at the age of one hundred and four years. He was two years at Oberlin College, Ohio (1848-1849), and graduated from the State and National Law School, New York, in

June, 1853, and was admitted in New York that year and in Iowa in 1854. He then open opened an office at Sabula, Jackson county, Iowa. In 1858 he formed a partnership with D. F. Spurr, at Bellevue, Iowa. This partnership continued until 1860. In 1870 Judge Darling removed to Clinton and opened an office and he has continued alone ever since in general practice. He was elected county judge of Jackson county in the fall of 1867, and served two years. He is a democrat in politics.

Since the foregoing was prepared Judge Darling has moved to Lanoke, Ark., where he is now engaged in practice. As a scholarly, courteous gentleman, a persuasive orator and skillful advocate, he has had few equals and no superior at the Clinton county bar.

A. P. Barker was born in Chicago, Cook county, Illinois, December 15, 1854, and is a son of Lewis W. and Caroline (Squires) Barker. His parents had little means, and moved to Camanche, in this county, in 1869. His boyhood was passed in attending school and working in the saw mill of that place and on farms in its vicinity. He was educated in the public schools at Camanche, and the Iowa State College, graduating in 1876. He taught in the public schools of the county during vacations, and was for two years principal of the Camanche high school. He read law in the office of Hon. A. R. Cotton for two years, and was admitted to the bar in 1879. He was employed in the office of Judge G. B. Young for one year, and later officed with Major E. S. Bailey, from 1881 to 1887, engaged in practice for himself. He then went to Kansas and engaged in banking and law at Leoti for two years. He came back to Clinton in 1889, and was taken into partnership by Major Bailey, which partnership continued until that gentleman's death in 1892. He succeeded to the business of the firm, remaining alone until 1897, when he formed a partnership with R. B. McCoy, which continued until June, 1902. At that time, the firm

N. P. Barker

N. W. Seaman

of Ellis & Ellis having been dissolved, Mr. F. W. Ellis became associated with them under the name of Barker, Ellis & McCoy. This partnership continued until Mr. Barker was appointed, by Governor Cummins, judge of the district court, September 1, 1904. He was re-elected in November of that year, and still occupies that position.

Halleck Wager Seaman was born at Clinton, Iowa, September 26, 1860, and is a son of Richard S. and Emma (Carter) Seaman. He graduated from the public schools of Clinton and took a collegiate course at the State University of Iowa, graduating in 1881. He read law with Judge Geo. B. Young, and was admitted to the bar in 1882. In 1893 Mr. Seaman entered into partnership with Hon. Charles W. Chase, which still continues.

Mr. Seaman makes corporation law a specialty. He organizes corporations and finances business carried on by corporations. He has successfully financed and built several railways, and is now president of the Illinois, Iowa & Minnesota Railway Company, president of the Lorain and West Virginia road, and was president of the Ozark & Cherokee Central Railway during its construction period, and until sold to the Frisco System. He is a stockholder and director in the First National Bank at Telequah, and the City National at Clinton, Iowa.

William J. McCoy was born at Fulton, Illinois, July 13, 1844. His parents were James and Elizabeth (Russell) McCoy, who settled in Fulton, Illinois, about 1835. William attended the public schools at Fulton, and the Illinois College. He read law in his father's office, and took a course of two years at the Chicago Law School, and graduated in 1867. He was admitted in Illinois in 1867, and Iowa in 1891. He began the practice of law with his father in 1867, and remained with him for a number of years, and then went to Morrison, Illinois, county-seat of Whiteside county, for a short time; returned to Fulton, and was with his father until 1878. Returning

to Morrison, he practiced law there until 1891 when he removed to Clinton and formed a partnership with his brother, A. R. McCoy, which lasted until the death of the latter in 1896. He has been alone ever since in general practice. He was county judge of Whiteside county, Illinois, from 1882 to 1890, and city attorney of Clinton for six years. He is now the member of the Iowa Republican state central committee for the Second congressional district. He is a Mason, having taken all of the degrees but one.

Francis M. Fort was born in Jackson county, Iowa, November 9, 1848. He attended the common schools of Jackson county, and the academy at Maquoketa for a while. He then took a course at the State University at Iowa City, and graduated from Ann Arbor law school in 1871. He was admitted to the bar in Iowa in the fall of 1871. He read law a short time with Frank Amos, at Maquoketa, during vacation, while at college, the balance of the time teaching summer schools. After graduating from the law school he again entered the office of Mr. Amos as a partner. This partnership only continued a few months, as his health was very poor, and he went on a farm for a time. In 1872 he entered into partnership with Charles Rich at Maquoketa. Six months afterwards Mr. Rich died. He then continued alone in the practice of the law until 1886, when he moved to Sioux City, Iowa. He returned to Maquoketa in the fall of 1901 and formed partnership with his brother-in-law, D. A. Wynkoop, which continued one year. In 1902 he removed to Clinton. He was city attorney of Maquoketa two years.

A. Livingston Schuyler was born at Marshall, Michigan, in 1860. He came to Clinton in 1867; secured his common school education in that city, graduating from the high school. He then attended college at Ann Arbor, Michigan; returned to Clinton; studied law in the office of Major E. S. Bailey, and was admitted to practice in

1881. After spending a short time in the employ of Remy & Chumisero, well-known lawyers in Chicago, he returned to Clinton and in 188—, was elected clerk of the district and circuit courts, holding office for two terms. He was also postmaster of Clinton under Grover Cleveland's administration, and for several terms has been a member of the Clinton school board. After Judge Walter I. Hayes retired from the district bench, Mr. Schuyler entered into partnership with him, which partnership continued until Judge Hayes' death. He is now alone in practice.

Frank W. Ellis was born May 4, 1876, at Clinton, Iowa, and is a son of Lyman A. and Mary (Buckley) Ellis. He pursued his early studies in the city of his birth, graduated at the high school, and afterward entered the State University of Minnesota at Minneapolis. Later he read law with the firm of Ellis & McCoy; was admitted to practice in 1888, and in 1890 removed to Denver, Colorado, where he practiced for four years, having charge of much of the trial work of the large firm of Rogers, Cuthbert & Ellis. He then returned to Clinton, became associated with his father, under the firm name of Ellis & Ellis, with whom he remained until 1902, when, his father withdrawing from practice, the firm of Barker, Ellis & McCoy was formed, later becoming Ellis & McCoy, which is now one of the leading firms of the city. In 1899 he was married to Miss Celeste Ware. Mr. Ellis is a successful trial lawyer, inheriting his father's talent as an orator. Of late, however, he has devoted his legal talents to advising the numerous corporations of which he is counsel. Though actively interested in the success of the Republican party, he has declined to accept office. The only political position held by him being that of city solicitor of Clinton for one term.

Russell B. McCoy is the son of A. R. McCoy, and was born at Fulton, Illinois, in 1871. He graduated at the Clinton high school; attended Oberlin College at Oberlin,

Ohio; studied law in the office of Ellis & McCoy; was admitted to practice by the Supreme Court of Iowa, in 1896; and remained in the office of Ellis & McCoy and McCoy Bros. until the latter firm was dissolved by the death of his father. In 1897 he entered into copartnership with A. P. Barker, under the firm name of Barker & McCoy. This firm became Barker, Ellis & McCoy in June, 1902, by the addition thereto of Mr. F. A. Ellis, and was changed to Ellis & McCoy by the appointment of Mr. Barker to the district bench, September 1, 1904, by Gov. Cummins.

Edmund C. Walsh was born in Davenport, Iowa, October 13, 1859, but during his early life he was taken by his parents to the farm in Clinton county. In 1867 the family removed to Clinton, where, in 1869, he completed the high school course. He then matriculated in the State University, in which he was graduated in 1881. He studied law with the Hon. A. R. Cotton, and, upon the removal of that gentleman to California, succeeded to his business. Later he became associated with L. F. Sutton, under the name of Walsh & Sutton, and still later organized the firm of Walsh Brothers, composed of himself and five brothers. His time, as well as that of the entire firm, five of whom are lawyers, is now largely devoted to looking after their own large corporate affairs.

Mark A. Walsh was born in Clinton county, Iowa, March 31, 1867. He attended the public schools, and completed his law course in the State University of Iowa with the class of 1889, in which year he was admitted to practice before the courts of Iowa and of the United States. Later he was admitted to the Illinois courts, and his time is now devoted almost entirely to corporation law. He is the second member of the firm of Walsh Bros.

James W. Walsh was born in Clinton, Iowa, December 17, 1868. In June, 1887, he graduated from the Clin-

Mark Twain

S. C. Scott

ton high school. He read law at the State University graduating from that institution in 1889, and was admitted to practice his profession.

Charles H. Walsh was born March 4, 1871, graduated from the Clinton high school in June, 1890, and attended the Iowa State University and was later admitted to the Iowa bar.

Alfred E. Walsh was born January 24, 1874. He was educated at the public and high schools of Clinton, graduating from the latter in June, 1892, and from law department of the State University of Iowa in 1896; and admitted to practice in Illinois in October, 1899.

Eugene J. Walsh was born April 17, 1878. He graduated from the Clinton high school June, 1896, and from the law department of the State University of Iowa in 1900 and was admitted to the bar.

Samuel Crew Scott was born in Clinton, Iowa, September 1, 1860. His parents were Walter and Anna J. (Crew) Scott. Both sides of the family are of English descent and came to the United States at an early day. Grandfather Scott fought in the war of 1812, and was united with the English "Dodd" family. The mother's family came to the United States about 1790, being descendants of the English "Hargrave" family.

Samuel C. Scott graduated from the High School of Lyons City in the year 1879 with the highest honors of his class. Thereafter he took a collegiate course at the Iowa State College at Ames, from which institution he graduated with honors in 1883. He was admitted to the bar in June, 1884, when he opened a law office in Lyons, Iowa, and since which time he has been engaged in the practice of law. In 1890 he was united in marriage with Emma E. Manz. He was elected City Solicitor for the City of Clinton in 1896 and filled that office for two years. His politics is republican.

Wickleffe A. Cotton was born at Austintown, Ohio.

He came to Clinton county in 1844, was admitted to practice in 1867, and located at DeWitt, where he still resides in active practice. For ten years he was in partnership with Judge P. B. Wolfe, and for one term was state senator. He is a republican, very prominent in the politics of that party in the county, and one of its leading lawyers.

Aylett L. Pascal was born in Lyons, October 25, 1854. He graduated from the law department of the State University of Iowa with the class of 1878, and since that time has continuously practiced his profession in Clinton county, most of the time at DeWitt, where he is now located. He is a republican in politics, widely known throughout the state, actively interested in all public movements. For many years he was associated with D. Armentrout. He has recently taken into partnership with him his son, Aylett L., Jr., who was born at DeWitt, July 13, 1880 and graduated from the law department of Drake University, Des Moines, with the class of 1906.

Richard B. Wolfe was born in Clinton county, and is a brother of Judge P. B. Wolfe. He attended the common schools of the county and graduated at the DeWitt high school. In June, 1891, he graduated from the law department of the Iowa State University and was admitted to the bar of the state. He settled at DeWitt and is in the successful practice of his profession there.

Lyle F. Sutton, Clinton, Iowa, was born January 17, 1860, at Elk River, Iowa. His parents were Frank and Mary S. (Butler) Sutton. His education was had at the common schools of Clinton and the State University of Iowa, having graduated from the latter in 1880. He then attended the State University law school, graduating in 1884, and was admitted to the bar the same year. He began to practice law in Clinton on the 19th day of July, 1884, and has been in general practice ever since. He was city auditor and city clerk from 1885 to 1890. He is a republican, and always has taken an active part in Clinton

L. F. Sutton

county elections. For ten years he has been captain of Company E. old First (now Forty-ninth) regiment, Iowa National Guards.

Calvin H. George was born July 14, 1863, at Whiteside county, Illinois, and is a son of Daniel F. and Mary J. (Mitchell) George. His father's family settled in New Hampshire in an early day. His mother's family came from Ohio and settled in Illinois about 1843. His education was had at the district schools of Whiteside county, Illinois, and at Northern Indiana College, at Valparaiso, Indiana, and at Drake University, Des Moines. He read law with I. R. Andrews of Clinton and was admitted in 1887. He opened an office immediately after his admission and has continued alone ever since, doing a general law practice. He is a republican and generally active in politics. He was city attorney one term, 1894-1896, and county attorney three terms, 1896 to 1902.

George B. Phelps was born March 12, 1861, in Clinton county. His education was had at the common schools of Clinton, and the Iowa State Normal School. He read law with I. R. Andrews and R. R. Baldwin, and was admitted in October, 1889. He then opened an office in Clinton and is conducting a general practice, making commercial, real estate and probate law a specialty. He was county superintendent of schools 1886 to 1890, city attorney from March, 1890 to March, 1894. In politics he is a democrat.

William J. Keefe was born at Clinton, November 17, 1874; was educated at the public and high schools at Clinton; graduated from the University of Iowa in 1894; and was admitted that year. He opened an office in Clinton in July, 1894. He is a democrat, and was county attorney from 1902 to 1904. He was appointed by Judge Shiras United States commissioner in 1896; was Chairman of the Democratic county central committee in 1898 and 1899.

George F. Skinner was born at Ottawa, Illinois, May 25, 1857, a son of Charles and Ann (Burns) Skinner. His father came from England in 1852 and settled in Ottawa, Illinois. His mother's great-grandfather came to Boston from Scotland some three or four generations ago. He attended the public schools of Livingston county, Illinois, Grand Prana Academy, Illinois, Wabash College, Crawfordsville, Indiana, graduating in 1883. He studied law with J. P. Ferguson, Clarence, Iowa, four years, and was admitted in 1891. He then began practice of law in Clinton, June 1, 1891, and continued alone until 1893, when Mr. V. G. Coe became a partner, and they have been doing a general practice and real estate law since that time. He has never held an office, but is generally active in politics. He votes the republican ticket. The firm of which he is a member also does a very large and successful abstract of title business.

Victor G. Coe was born in Cedar county, Iowa, December 9, 1861. His parents were Herman G. and Catherine (McClurg) Coe, and they came to Iowa in 1852. Victor attended the common schools of Cedar county, and the high school of Clarence in that county. He took the law and collegiate courses at the University of Iowa, graduating in 1893, and was admitted to the bar. He then formed a partnership in the fall of 1893 with Geo. F. Skinner, at Clinton, under the firm name of Skinner & Coe, making a specialty of real estate and probate law. He is a republican, and active in politics; never sought office, but enjoys helping his friend to an election. He is a member of the school board.

Ernest L. Miller was born in Marshall county, April 7th, 1869. His parents were Samuel and Mary A. (Randall) Miller. He attended the public schools of Clinton, graduating from the high school. His legal education was had at Chicago College of Law and the Union College, graduating in 1892. He was admitted to the Illi-

nois bar in 1892, and to the Iowa bar in 1893. He has been alone in the practice of his profession since that time. In politics he is a republican, and was elected county attorney in 1905. He still holds that office.

J. H. Walliker was born in Muscatine, Iowa, May 25, 1848 He came to Clinton November 19, 1855. He studied law two years at the University of Michigan where he graduated in 1870. He came to Clinton in 1871, where he has lived and practiced law most of the time since. He was elected sheriff for one term in 1873, and city attorney of Clinton, in 1876.

Arnold W. Walliker was born in Muscatine, Iowa, September 24, 1855, and is a son of Jacob H. and Anna M. (Lanfenback) Walliker. He attended the common schools of Peoria county, Ill., and the Clinton high school. He read law while on a farm three or four years during the winter months, and was admitted to the bar in June, 1882. Then he opened an office at Red Oak, Iowa. He then removed to Atlantic, Cass county, Iowa. He continued here until July, 1883, then came to Clinton and formed a partnership with his brother, J. H. Walliker, which continued until April, 1905. Since then he has been alone in the practice of his profession. He was mayor of Clinton in 1886.

William Kreim was born at Clinton, Iowa, January 28, 1860, and is a son of Henry and Mary C. (Meyers) Kreim. He attended the common schools of Clinton, and the high school one year. He studied law two years with A. R. McCoy, and then took one year course at the State University law department. He graduated and was admitted in June, 1883. He practiced at Clinton until the fall of 1887, when he was elected clerk of the district court, Clinton county. He served two terms until 1891, then commenced practice again, and has so continued in general practice since. In politics he is a democrat and always takes an active part in elections.

William H. Childs, Lyons, was born in Clinton county, January 13, 1869, and is a son of Henry and Climesia (Grohe) Childs. His early education was had at the public schools of Clinton county. He attended Cornell College, Mt. Vernon, Iowa, and Northern Indiana Law School at Valparaiso, Indiana, graduating in 1893. The same year he was admitted to practice in Indiana, and in Iowa the following year. He began to practice with his Uncle, W. C. Grohe, at Lyons, Iowa. This partnership continued until the death of Mr. Grohe in 1898. Since then he has been alone. He is a republican.

William H. Carroll was born in Scott county, Iowa, April 16, 1869. He attended the common schools of Scott county, and the Dixon, Illinois, Normal School, took a legal course at State University of Iowa, and was graduated and admitted in 1894. He then formed a partnership with his brother, R. A. Carroll, which still continues. He is chairman of the Democratic county central committee, and for two years was assistant county attorney of Clinton county.

Frank L. Holleran, Lyons, Ia., was born at Fulton, Illinois, May 4, 1869. He attended the public schools, and the Northern Illinois college, Fulton, and graduated in 1890. He graduated from the University of Michigan, law department, in 1891. He was admitted in Illinois in 1890, in Michigan in 1891, and Iowa in 1891. He opened an office July, 1891, at Lyons, Iowa, and has continued ever since in general practice. He is a democrat and takes an active part in all departments of politics. In 1896 and 1897 he filled the office of assistant county attorney, and he is a member of the school board. For eight years he was First Lieutenant, Company L, Iowa National Guards, until June, 1898, when he enlisted in the United States service.

John H. Dunnan was born in Philadelphia, Pennsylvania, October 22, 1869, a son of John W. and Mary A.

(Hogg) Dunnan. The family came to Clinton county, Iowa, about 1869. John attended the public schools of DeWitt, and took a two years' collegiate course at the Iowa State University, graduating from the law department in 1892, and was admitted and opened an office in Clinton, Iowa, that year, and has done a general law practice since that time. He is a democrat in politics and takes an active part, but has never held an elective office. Was appointed by Judge Wolfe a member of the board of commissioners of insanity for Clinton county and still holds that office.

Louis E. Schmitt is a native of Wisconsin, being born June 29, 1872, in Iowa county, Wisconsin. His father and mother are of German extraction, with some French on the mother's side. His father came to the United States when a small boy and settled in Iowa county, Wisconsin, and his mother's family settled in Milwaukee, Wisconsin. Louis attended the public schools of Iowa county, Wisconsin, and graduated from the University of Wisconsin in 1895. Afterwards he went to the Iowa State Normal for special work; was admitted in 1900; came to Clinton, and has done a general law practice since. Is now city solicitor of Clinton.

William E. Russell was born in Bethany, West Virginia, in 1855. He came to Iowa in 1863, studied law with W. C. Grohe in Lyons, and was admitted to the bar in 1852. He resides in Clinton, where he is practicing his profession. He was city solicitor of Lyons for one year just prior to its consolidation with Clinton and city auditor of Clinton for the first term after such consolidation.

E. J. Blessington was born July 3, 1870, at Lyons, Iowa. He attended St. Joseph's College, Dubuque, and Notre Dame University, Indiana, graduating at the latter, in law, in 1890. He came to Clinton, and for five years was in the office of Ellis & McCoy. He practiced by himself for about ten years, and is now connected with the firm of Ellis & McCoy.

Riley W. Damon was born at Bridgeport, New York, December 11, 1854. In 1861 he came to Davenport, enlisted in Company B, 8th Iowa Infantry, and later in Company A, of the 18th, with which he remained until the close of the war. He read law with Captain U. A. Merrill, of DeWitt, and was admitted to the bar in 1869, settling at Calamus, where he has since resided and practiced his profession.

F. L. Sunderlin was born in Sunderlinville, Potter county, Pennsylvania, November 30, 1857, came to Iowa in 1863, studied law with T. E. Elwood at Maquoketa, and was admitted June 25th, 1879. He located at Delmar in 1887, where he practices his profession in addition to conducting the Delmar Journal.

R. C. Langan was born in DeWitt, Iowa, in 1873, took his collegiate course at Notre Dame University, and studied law at Georgetown, D. C., where he graduated with the degree of B. L. in 1896. He is a democrat and has been twice elected to the Iowa house of representatives, the first time in 1903.

John B. Ahrens, Lyons, was born at Bryant, Clinton county, Iowa, January 26, 1874. His parents were born in Germany and came to the United States in 1853, settling at Bryant. He attended the common and high schools of Lyons, and graduated from Drake University law department in 1897. He then opened an office at Denison, Iowa, in the fall of 1897, and remained there about nine months, when he removed to Lyons where he has ever since been in practice, giving the probate law strict attention. He is generally active in politics and votes the republican ticket. He has never held office and has no political aspirations.

Dale H. Shepard was born in Erie county, New York, November 6, 1863. His father was George Shepard, and his mother was Julia (Cook) Shepard, both of Scotch-Irish descent. Dale H's education was had in the public

schools of Erie county, New York, and Albion Seminary, Marshall county, Iowa. He studied law with R. T. T. Spence, Lyons, Iowa, for eleven months, then with W. V. Allen, Madison county, Nebraska, for eight months. He was admitted in Nebraska June 6, 1887. He returned to Iowa from Nebraska in 1888, settling in Clinton in 1892. He has not been actively engaged in his profession since that time, but carries on the business of farm mortgages, stocks and bonds. He is a democrat in politics.

William T. Oakes was born in Clinton, September 16, 1878. He studied in the Clinton parochial and public schools. He studied law in the law department of the State University of Iowa, where he graduated, and was admitted to the bar in 1903. He located in Clinton, and is now connected with the firm of Wolfe & Wolfe.

John L. Wolfe was born in DeWitt, July 31, 1879, attended the DeWitt and Clinton public schools, and later St. Mary's College, at St. Mary's, Kansas, receiving his B. A. degree. He then entered Georgetown University, Georgetown, D. C., where he took his M. A. degree, and in 1904 graduated in law. September 1, 1904, he entered the law firm of Wolfe & Wolfe, of which his father, Judge P. B. Wolfe, is the senior member, at Clinton.

Arthur L. Wessells was born at Macon City, Missouri, in 1873, came to Clinton county in 1876, was educated in the common schools, United States Naval Academy at Annapolis, and Cornell University, New York, where he took the degree of B. S. He graduated from the law department of the State University of Iowa in 1900. He located at Clinton the same year, forming with his brother, Alden V. E. Wessells, the firm of Wessells Bros.

Henry F. Bowers was born in Baltimore, Maryland, August 12, 1837, removing to Iowa in 1857. In 1863 he became deputy clerk of courts, then deputy county recorder, served two terms as recorder, and June 20, 1877, was admitted to the bar. He has ever since resided and

practiced his profession in Clinton. Mr. Bowers is the founder of the American Protective Association, known as the A. P. A. He is a republican.

T. W. Hall was born in Clinton county in 1858, studied law with Walsh Bros., and was admitted in 1891. Located in Clinton.

T. R. Murray was born in 1864, studied law at the Northern Illinois College at Fulton, and was admitted to the Iowa bar in 1901. He is located at Clinton.

CRAWFORD COUNTY.

HISTORICAL AND BIOGRAPHICAL.

Up to April 1855, the county was attached to Shelby for judicial and other purposes. At the April election the county was organized by election of the following officers: E. W. Fowler, county judge; Thos. Dobson, clerk; A. R. Hunt, treasurer and recorder; D. J. Fowler, sheriff; Isaac B. Goodrich, school fund commissioner; Cyrus B. Whitmore, prosecuting attorney; Samuel G. Kennedy, surveyor; L. L. Skinner, coroner; J. R. Bassett, drainage commissioner. The first lawyer in the county was S. J. Comfort, and in 1864 he was elected to the legislature.

THE CRAWFORD COUNTY BAR.

L. E. Goodwin, W. E. Kahler, J. E. Balle, D. L. Boynton, E. K. Burch, Conner & Lally, T. J. Garrison, J. F. Glenn, P. W. Harding, P. J. Klinker, P. D. McMahon, W. M. McLennan, Geo. Richardson, Shaw, Sims & Kuehnle, Van R. Shaw, Charles Tabor, O. W. Wheeler, J. H. Walker, W. S. Moore, Maurice O'Connor and E. H. Swasey.

Hon. Leslie M. Shaw was born in Morristown, Vermont, November 2, 1848. His parents were Boardman P. and Louisa (Spaulding) Shaw. He received his early education in the common schools and academy in Vermont. He moved to Iowa in 1869, and in 1874 completed a course and graduated from Cornell College, Mount Ver-

non. In 1876 he graduated from the Iowa College of Law, and located in Denison, Iowa, where he commenced the practice. Mr. Shaw has been an earnest republican for many years,--the active and influential part which he took in the national campaign in 1896 putting him in the foreground as a strong candidate for governor to which office he was elected in 1897, receiving the largest vote ever cast for a republican governor up to that time. He was renominated in 1899 by acclamation, and re-elected, doubling his plurality and quadrupling his majority. He was chairman of the sound money convention which convened in Indianapolis in 1898. At the expiration of his second term as governor of the State in January, 1902, he was appointed by President Roosevelt secretary of the treasury, which position he held until he resigned in the spring of 1907.

James P. Conner, member of the Fifty-ninth congress, was born in Delaware county, Indiana, January 27, 1851. When a child he came with his parents, about 1854, to Blackhawk county, Iowa, where he spent his early life on a farm, attending the district school in the winter months. At the age of sixteen he studied four years at Upper Iowa University, paying his expenses with money earned by teaching and any honest employment he could get. In 1872 he entered the law department of the Iowa State University, from which he was graduated in June, 1873, and in the fall of the same year he opened an office at Denison, and soon enjoyed a lucrative practice. In 1880 he was elected to the office of district attorney of the Thirteenth judicial district, comprising Greene, Carroll, Crawford, Audubon, Shelby, Cass, Pottawattamie, Mills and Fremont counties, and on January 1, 1881, assumed the duties of his office. At the expiration of his four years' term of office he was elected circuit judge in the same district, and so continued till 1886, when the legislature abolished the office and so divided the district that

Crawford, the county in which Judge Conner resided, became a part of the Sixteenth judicial district, comprising Greene, Crawford, Carroll, Sac, Ida and Calhoun counties. He was elected judge of this new district in 1886 and, there being no opposing candidate, received the vote of both parties. Declining a renomination at the expiration of his term he, in 1891, resumed his law practice at Denison. In the fall of 1900 Judge Conner received the republican nomination for congressman and was elected from the Tenth district. He was re-elected in 1902, and is now serving in the Fifty-ninth congress.

DALLAS COUNTY.

HISTORICAL.

Dallas county was organized by act of the legislature approved February 16, 1847. The same act, to enable the organization to become effective, appointed Eli Smithson as sheriff and under date of March 1, 1847, Mr. Smithson issued his proclamation calling an election for the first Monday in the following April for the purpose of electing three county commissioners, one clerk, for the same, one clerk of the district court, one treasurer and recorder, one sheriff, one county surveyor, one judge of probate, one prosecuting attorney, one coroner, one sealer of weights and measures, one school fund commissioner, one justice of the peace and one constable. The first district court of the county was held on the 6th day of September, 1847, at the house of W. W. Miller. Judge James P. Carelton, of Iowa City, was the presiding judge, S. K. Scoville was clerk, and Eli Smithson sheriff. It took nearly the entire voting population of the county to furnish the necessary officers of the court and a jury of twelve men. The grand jury held its first session in the shade of a tree. It failed to return any indictments, and court adjourned without transacting any business. The first court-house was a double log cabin, built in 1848 by Buel Lathrop, and